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THE

OLDER STATUTES

IN FORCE IN INDIA

NOTES

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PREFACE.

THE present volume contains all the English Statutes passed before 1726 which can possibly be of practical utility within the Presidency Towns. A sequel is intended to contain such of the Statutes relating to India passed between that year and 1874 as will remain unrepealed after the statutes relating to Indian Government have been consolidated somewhat in the manner proposed by the late Mr. Merivale.

It is well settled that, on the establishment of M Courts in Calcutta, Madras and Bombay under the char Geo. I, the Statute-law in force in England in the yea introduced into the Presidencies so far as it was local circumstances (*a*).

Under the qualification contained in the proposition, large classes of Statutes will o . The Statutes, for instance, dealing with t ow- sons, Bankruptcy, Bastardy, Clergy, C tions, Elections, Excise, Forests, Police, Poor-r , Tithes and the qualification of Sheriffs were clearly with reference to the special conditions of England, and could never be deemed applicable to any part of India. Other Statutes, such as those relating to Coroners, Crimes, Executors, Jurors, Justices of the Peace, Lotteries, Oaths, Pleading and Riotous Assemblies have been rendered by recent Indian legislation unnecessary and

(*a*) See Clarke's Rules and Orders of the Supreme Court, Calcutta, 1829, preface, p. IV. *Doe d. Savage* v. *Bancharam Tagore*, Morton 72, per Chambers J.: *Musleah* v. *Musleah*, Boulu. Rep. 240, per Colvile C. J.: *Padamani Dasi* v. *Jagadamba Dasi*, 3 Ben. L. R., O. C. J. 59: *Wilkinson* v. *Abbas Sircar*, ib. 98, 99, per Peacock C. J.: *Manikji Mehervanji* v. *Rahimtulla Alubhai*, 1 Bomb. Appendix 1, per Sausse C. J.: *Ranee Hurrosoondaree Dossee* v. *Raja Kistonath Roy*, cited 1 Hyde's Rep. 70. But as the Letters Patent of Charles II, in 1661, granted "that the Governor and his Council.....might have power to judge all persons.....in all causes, whether civil or criminal, *according to the Laws of the Kingdom of England*," it would be more correct to say that, ever since the establishment of the Mayors' Courts, the English Statutes in force in 1726 have been deemed in force in the Presidencies so far as they were applicable to local circumstances: see *Freeman* v. *Fairlie*, 1 Moo. I. A. Ca. 342: *Jebb* v. *Lefevre*, Clarke's Rules and Orders, etc. 56.

therefore inapplicable. But when we go beyond these classes of laws, and inquire, for example, whether the Statutes relating to maintenance and champerty are in force in Calcutta, we at once fall into doubt and difficulty. It is true that, in the absence of any declaration by the legislature, the Judges of the late Supreme Courts and those of the present High Courts have assumed the function of declaring what Statutes shall be deemed in force within the local limits of their ordinary original jurisdiction. But, in the first place, the Judges have made such declarations in comparatively few instances; in the second place, their decisions have not always been reported; thirdly, it may, with deference, be doubted whether their declarations are always right; and fourthly, even when they are certainly correct, the rulings of the Judges of one Supreme or High Court are not binding upon those of another. *(a)*

Even in cases where a Statute certainly operates in the Presidency Towns, it is not always clear whether it applies to all the inhabitants or only to Europeans. Thus, every one agrees that the Statutes of Elizabeth relating to fraudulent conveyances are in force in Calcutta, Madras and Bombay; and in Calcutta, the late Mr. Justice Norman (2 Ind. Jur. O. S. 7) held that they applied to Natives as well as to Europeans. But in Madras, Sir Adam Bittleston seemed to think, in a case reported in 6 Mad. H. C. Rep. 474, that they applied only to British subjects other than Hindús or Muhammadans.

The result is a great amount of uncertainty as to the Statute-law in force in the Presidency towns and this not merely in rare instances, but in matters of constant occurrence. Sir Lawrence Peel (for example) in an unreported case held that the Statutes relating to maintenance and champerty did not apply to India. Mr. Justice Phear (4 Beng. O. J. 1) and Mr. Justice Holloway (7 Madras, 143), on the contrary, hold that they do apply, at least within the Presidency towns. Peacock C. J. (9 Suth. Cr. R. 243) held that champerty is not

(a) A list of the Statutes passed before 1726 and held not to apply to India, is given in Table A annexed to this preface.

illegal in the Mofussil. Scotland C. J. (1 Madras, 153), admitting that the common and statute law as to maintenance and champerty did not apply to Natives, thought that the 'general principles' upon which it rests might be so applied. For two days, again, the High Court in Madras has lately been occupied in discussing whether or not the sixth section of the Lord's Day Act (29 Car. II, cap. 7) applies to the Presidency towns, and whether therefore a Muhammadan debtor could or could not be legally arrested on Sunday. The decisions of the Court of First Instance and of the Appellate Bench were conflicting, and as a further appeal is (I believe) pending, the question cannot yet be regarded as settled even in Madras, much less in Calcutta or Bomba Do the Statutes of 52 Hen. III, 13 Edw. 1, cap. 37, 1 & 2 Mar. cap. 12, 17 Char. II, cap. 7 and 11 Geo. II, cap. 1 distresses in the Presidency towns for arrears of ren Rs. 1,000(*a*)? If not, what law is applicable to suc Even so ordinary a matter as protesting an inland payment is clouded with doubt. The Statute (legalizing this practice has never been ruled India; and as it is in terms applicable only t or dated at places "in the kingdom of England, d ales or town of Berwick upon Tweed," it is quite possib may be held not to operate in this country.

This uncertainty is not confined to the Presidency towns, for, under the Burma Courts Act (VII of 1872), the Recorder of Rangoon determines cases in which the parties are not Hindús, Muhammadans nor Buddhists in accordance with "the law administered by the High Court at Fort William in the exercise of its ordinary original civil jurisdiction;" and of this law, the English Statutes (whatever they may be) in force in Calcutta form an important element.

Moreover, the Statutes in force in the Presidency towns (except of course where they have been modified by Indian legislation) seem to operate as a kind of personal law in the case of

(*a*) Distresses for arrears not exceeding Rs. 1,000 are provided for by the Small Cause Courts Acts VII of 1847, IX of 1850, s. 89, and XXVI of 1864, s. 4.

European vendors, purchasers, mortgagors, mortgagees, lessors or lessees of land anywhere in India outside the local limits. For Peel, C. J., in *Storm* v. *Homfray*, 1 Tayl. & Bell 333-4, ruled that "British subjects litigating in this Court [the late Supreme Court at Fort William] as to the title to immoveable property, *though situate in the Mofussil*, must have their rights as to the subject-matter determined by the law of England, so far as it has been introduced here."

The doubts and difficulties above referred to have been brought very vividly before me while preparing for Government the edition of the Statutes in force in India of which the first instalment is contained in the present volume; and it seems to me that this is clearly a case in which the Legislature, in consultation with the Judges of the High Courts, might usefully declare that certain of the Statutes (specifying them) passed before 1726 shall be deemed to be in force in the Presidency towns, and that all other Statutes passed before that year shall be repealed so far as they affect British India. The necessary legislation might be effected either by a separate Bill, or by adding a section and schedule to the Laws Local Extent Bill now before the Council. This would, I think, be more convenient than giving (as was done in the case of N. S. Wales by 9 Geo. IV, c. 83, s. 24) power to the Executive, with the advice of the Legislature, to declare whether any particular Statute extends to this country. Whichever of these suggestions is adopted, the collection contained in the present volume will probably be of use. It consists, as will be seen, of all the Statutes (except five Acts of no practical importance in this country) passed before 1726, which can possibly be deemed in force in the Presidency towns; and references to all the reported decisions of the Judges as to whether a Statute is or is not in force in India will be found in notes (*a*) at the proper places or in the Table at p. ix. Where the Revised Edition of the Statutes, London, 1870, differs with respect to years, statutes and chapters from Ruffhead's

(*a*) These notes are marked with letters in parentheses. The notes marked with figures, asterisks and obelisks are taken from the Revised Edition of the Statutes.

Pickering's and other editions, the Revised Edition has been followed. Where a Statute is in Anglonorman or Latin, nothing but the translation in the Revised Edition has been given.

It will be seen that, of the 732 Statutes passed before 1726 and still in force in England, 75 appear to me to be (some certainly, others probably, the rest possibly) in force in the Presidency towns and Rangoon.

If three Acts were passed by the Legislative Council, one dealing with maintenance and champerty, another abolishing the Sheriff or consolidating the law concerning that functionary, and a third extending the present law as to distresses for arrears not exceeding Rs. 1,000 to arrears exceeding that sum, the number of these Statutes might be reduced to 53.

Regarding the Statutes passed subsequently to [illegible]ere is less difficulty. Some have been expressly applie[illegible] Acts of the Indian legislature (*a*). As to the othe[illegible] that none but the unrepealed Statutes expressly [illegible] implication, extending to India are in force in [illegible]s country. See *Edwards* v. *Ronald*, 1 Kn[illegible]9: *Bank of Hindústán* v. *Premchand Ráicha*[illegible]J. J. 91. The authority on which the Indian Co[illegible]sed to apply any of the other Statutes passed since [illegible]g of the charter of George I is to be found in Calvin's ca[illegible], 7 Rep. 1 (*b*). I know of no Statutes to which the doctrine, that usage is sufficient to extend an Act of Parliament to a colony (25 Geo. II, c. 6, s. 10, Forsyth's *Cases and Opinions*, p. 2), can be considered to apply in India.

Doubts may be raised as to how far some of the modern repealing and amending Statutes are in force in this country. Most of the Statutes in force in England in the year 1726 have been repealed by Statutes which in very few instances expressly apply to India. Do the repealing Acts operate here? Parliament

(*a*) See Acts XIII of 1840, XIV of 1840 (both repealed), XXIV of 1841 and IX of 1842.

(*b*) See Clarke's Rules and Orders, Pref. IV. "It does not rest upon any one case, Calvin's or any other, however respectable that authority, but on the clearest grounds of law and good sense:" *Wyatt* v. *Rooplaul Mullick*, ib. 155, per Grant J.

(see 9 Geo. 4, c. 74, s. 125) and the supreme Indian legislature have more than once acted as if this question should be answered in the negative. On the other hand, the last Statute-law Revision Act (36 & 37 Vic., c. 91) declares that it "shall not extend to repeal any enactment so far as the same may be in force in any part of Her Majesty's Dominions out of the United Kingdom, except where otherwise expressed in the said schedule." This seems to shew that, in the opinion of Parliament, that Act would, in the absence of the declaration just quoted, have operated in British India. Does a modern Statute amending an ancient Statute in force in India extend to this country by necessary implication? For instance, the Habeas Corpus Act (31 Char. 2, c. 2) applies to the Presidency towns; but does the amending Act, 56 Geo. 3, c. 100, apply also? In *Reg.* v. *Vaughan*, 5 Beng. 429, Phear J. asserted that it did not; but Mr. Anstey, in *Ameer Khan's* case (6 Beng. 418) contended that it did; the point was not decided. Dwarris, 527, says that "Acts of Parliament altering other Acts in force in the Colonies are considered as themselves applying there." But he cites no authority for this proposition. It is merely the opinion of a respectable text-writer; and the supreme Indian legislature has at least in one instance (the enactment of so much of 19 & 20 Vic., c. 97, as modified the requirements of the Statute of Frauds as to the consideration for a guarantee) acted as if the opposite view were correct.

The decisions on this branch of the subject are almost all negative, *i. e.*, that such and such a Statute does not extend to this country. For convenience of reference they are collected in Table B.

Table C is a chronological Table shewing the Statutes formerly in force, or supposed to be in force, in this country, but now expressly repealed as to India.

W. S.

CALCUTTA,
25th April, 1874.

TABLE A.

Statutes passed before 1726 *and held not to apply to India.*

Year, reign and chapter.	Subject-matter.	Cases shewing non-application.
23 Hen. 8, c. 10	Conveyances to pious uses	*Mayor of Lyons* v. *E. I. Company*, 1 Moo. I. A. Ca. 296. *Mitford* v. [illegible]*nolds*, 1 Phill. 185, 192. See *Atty.* [illegible] 2 Mer. 143.
27 Hen. 8, c. 16	Inrolment of bargains and sales.	*Doe* d. [illegible] *ram Tagore*, Mort[illegible] 05.
1 Edw. 6, c. 14	Superstitious uses ...	*Atty. G*[illegible] *Atmárám*, 1 Bom[illegible] *Das M*[illegible] yde 65. *Andre*[illegible] Beng. O. C. J. 14[illegible]
5 & 6 Edw. 6, c. 16	Buying and selling offices	See [illegible] Burr. 2500.
29 Char. 2, c. 7	Lord's Day Act, secs. 1 to 5	Ma[illegible] No. 26 of 1873 [illegible]
8 Ann, c. 18 (c. 14, Ruff.)	Security of Rents. Frauds by tenants.	*Padamani Dasi* v. *Jagadamba Dasi*, 3 Beng. L. R. O. C. J. 59.
9 Ann, c. 19 (c. 14, Ruff.)	Gaming	*Nobkissen's case*, Mort. 353, *Cullen* v. *Swinhoe*, ib. 354.
13 Anne, c. 15 (12 Anne, Stat. 2, c. 16, Ruff.)	Usury	Sir Hyde East's evidence cited Fulton 414.
6 Geo. 1, c. 18	Bubble Act	*Horsely* v. *Cotton*, Morton 364.

TABLE B.

Statutes passed since 1726 *and held not to apply to India.*

Year, reign and chapter.	Subject-matter.	Cases shewing non-application.
26 Geo. 2, c. 23	Clandestine marriages ...	*Maclean* v. *Cristall*, Perry Or. Ca. 75, 87.
14 Geo. 3, c. 48 c. 78 28 Geo. 3, c. 56	Insurance	*MacGregor* v. *Fergusson*, 1 Tayl. & Bell 378.
47 Geo. 3, sess. 2, c. 25.	Half-pay and pensions ...	Does not apply to assignments of pensions granted by E. I. Company, *Heald* v. *Hay*, 3 Giff. 467 : *Carew* v. *Cooper*, 4 Giff. 619.
56 Geo. 3, c. 100	Habeas corpus ...	*Reg.* v. *Vaughan*, 5 Beng. 418, 429.
6 Geo. 4, c. 16, s. 92.	Evidence of bankruptcy and assignment in England	*Wyatt* v. *Rooploll Mullick*, Mort. 367 : *Clark* v. *Mullick*, 2 Moo. I. A. 263.
1 & 2 Wm. 4, c. 58.	Interpleader ...	*In re Hunt, &c.*, 1 Bomb. A. C. J. 259.
2 & 3 Wm. 4, c. 114.	Evidence of bankruptcy ...	*Wyatt* v. *Rooploll*, *Clark* v. *Mullick*, Supra.
4 & 5 Wm. 4, c. 85, s. 5.	Billeting soldiers ...	*Robinson* v. *Carey*, Bourke (O. C. J.) 405.
5 & 6 Wm. 4, c. 54.	Marriages within prohibited degrees.	Does not apply to East Indians born and domiciled in India, *Das Merces* v. *Cones*, 2 Hyde 65.
2 Vic., c. 11, s. 7	Lis pendens ...	*Kasim Shaw* v. *Unnodapersaud Chatterjee*, 1 Hyde 160, 167.
2 & 3 Vic., c. 29	Attachment of bankrupt's property.	*In re Hunt, &c.*, 1 Bomb. A. C. J. 259.
c. 54	Infants	*Re Holmes*, 1 Hyde 99 : *Re Tayheb Ally*, 2 Hyde 64.
3 & 4 Vic., c. 65, s. 6.	Admiralty jurisdiction to entertain causes for necessaries supplied to foreign ships.	*Hormasji* v. *Ukarji*, 5 Bomb. O. C. J. 64.
8 & 9 Vic., c. 109	Wagers	*Ramloll Thackoorseydass* v. *Soojunmull*, 4 Moo. I. A. 339.
12 & 13 Vic., c. 106, s. 133.	Attachments not affected by bankruptcy.	*In re Hunt, &c.*, 1 Bomb. A. C. J. 259.
17 & 18 Vic., c. 125, s. 20.	Exemption from taking oaths.	*P. Valu Mudali* v. *Sowerby*, 2 Mad. H. C. Rep. 246.
24 Vic., c. 10	Admiralty	*Hormasji* v. *Ukarji*, 5 Bomb. O. C. J. 64.
25 & 26 Vic., c. 89, s. 87.	Stay of suits against Company after order for winding up.	*Bank of Hindustán* v. *Premchand Ráichand*, 5 Bomb. O. C. J. 92.

TABLE C.

Repealed Statutes.

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
52 Hen. 3, c. 25	Murder ...	The whole	9 Geo. 4, c. 74, s. 125.
3 Edw. 1, c. 2	Benefit of clergy	Ditto	Ditto.
3 Edw. 1, c. 11	Inquests of murder.	Ditto	Ditto.
c. 13	Rape ...	Ditto	Ditto.
c. 20	Trespassers in parks and ponds.	Ditto	Ditto.
4 Edw. 1, *Stat. de bigamis.*	Real actions, &c.	In part	Ditto.
6 Edw. 1, c. 9	Homicide ...	Ditto	Ditto.
13 Edw. 1, *Stat. Westm. sec.* c. 29	Justices of Assize: Trespass.	Ditto	Ditto.
c. 34	Dower ...	Ditto	Ditto.
c. 46	Common ...	Ditto	Ditto.
13 Edw. 1, *Stat. Wynton.*	Churchyard ...	Ditto	Ditto.
21 Edw. 1, *Stat. de mal. in Parcis.*	Trespassers in forests, &c.	The whole	Ditto.
25 Edw. 1, *Magna Carta*, c. 26	Criminal writs ...	Ditto	Ditto.
25 Edw. 1, *Carta de Foresta.*	Forest ...	In part	Ditto.
9 Edw. 2, Stat. 1, *Artic. cleri.*— c. 3	Prohibition ...	The whole ...	Ditto.
1 Edw. 3, Stat. 1 c. 8	Offences in forests	Ditto	Ditto.
18 Edw. 3, Stat. 3 c. 2	Bigamy ...	Ditto	Ditto.
25 Edw. 3, Stat. 5 c. 2	Arms: Forfeiture: Scire Facias: Treason.	In part	Ditto.
25 Edw. 3, Stat. 6 c. 4, 5	Benefit of clergy	The whole	Ditto.
28 Edw. 3, c. 11	Confirmation, &c. of 13 Ed. 1, Stat. Wynt. cc. 1, 2.	Qy. wholly ? ...	Ditto.
34 Edw. 3, c. 22	Finding of hawks	The whole	Ditto.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
37 Edw. 3 ...	Diet, apparel, &c.	In part	9 Geo. 4, c. 74, s. 125.
50 Edw. 3 ...	Confirmation of liberties and charters, pardon, arrest of clergy, &c.	Ditto	Ditto.
1 Ric. 2, c. 15	Arrest of clergy...	The whole	Ditto.
6 Ric. 2, Stat. 1	Confirmation of liberties, &c., rape, &c.	In part	Ditto.
5 Hen. 4, c. 6	Assaulting servants of Knights of Parliament.	The whole	Ditto.
2 Hen. 5, Stat. 1 c. 9	Murder ...	In part	Ditto.
8 Hen. 6, c. 12	Amendment ...	Ditto	Ditto.
11 Hen. 6, c. 11	Assaults on lords or commoners.	The whole	Ditto.
33 Hen. 6 ...	Embezzlement, &c.	In part	Ditto.
1 Hen. 7, c. 7	Hunting in forests	The whole	Ditto.
3 Hen. 7, c. 2	Abduction of women.	Ditto	Ditto.
3 Hen. 7, c. 14	King's household	Ditto	Ditto.
4 Hen. 7, c. 13	Benefit of clergy	Ditto	Ditto.
12 Hen. 7, c. 7	Benefit of clergy	Ditto	Ditto.
21 Hen. 8, c. 7	Embezzlement ...	Ditto	Ditto.
c. 11	Restitution of stolen goods.	Ditto	Ditto.
23 Hen. 8, c. 1	Benefit of clergy	Ditto	Ditto.
c. 11	Breaking prison	Ditto	Ditto.
24 Hen. 8, c. 5	Killing a thief ...	Ditto	Ditto.
25 Hen. 8, c. 6	Buggery ...	Ditto	Ditto.
31 Hen. 8, c. 2	Fishing ..	Ditto	Ditto.
32 Hen. 8, c. 1	Wills ...	The whole, except as to wills made before the 1st February 1839.	Act XXV of 1838, s. 2.
33 Hen. 8, c. 1	Counterfeit letters	The whole	9 Geo. 4, c. 74, s. 125.
c. 12	Criminal trial, &c.	In part	Ditto.
c. 23	Criminal law ...	The whole.	Ditto.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
34 & 35 Hen. 8—			
c. 5	Wills ...	The whole, except as to wills made before the 1st February 1839.	Act XXV of 1838, s. 2.
c. 14	Criminal law ...	The whole	9 Geo. 4, c. 74, s. 125.
35 Hen. 8, c. 17	Preservation of woods.	Ditto	Ditto.
37 Hen. 8, c. 6	Criminal law ...	Ditto	Ditto.
2 Edw. 6, c. 12	Dower ...	In part	Ditto.
2 & 3 Edw. 6, c. 33	Horse-stealing ...	The whole	Ditto.
5 & 6 Edw. 6, c. 4	Brawling ...	Ditto	Ditto.
c. 9	Robbery ...	Ditto	Ditto.
4 & 5 Phil. & Mar. c. 4	Accessaries in murder, &c.	Ditto	Ditto.
c. 8	Abduction ...	Ditto	Ditto.
5 Eliz., c. 4	Apprentice, Master and servant, &c.	In part	Ditto.
c. 10	Embezzlement ...	The whole	Ditto.
c. 17	Sodomy ...	Ditto	Ditto.
c. 21	Unlawful fishing..	Ditto	Ditto.
8 Eliz., c. 4	Benefit of clergy..	Ditto	Ditto.
18 Eliz., c. 7	Benefit of clergy..	Ditto	Ditto.
27 Eliz., c. 13	Hue and cry ...	Ditto	Ditto.
31 Eliz., c. 4	Embezzlement ...	Ditto	Ditto.
c. 12	Horse ...	In part	Ditto.
39 Eliz., c. 9	Abduction ...	The whole	Ditto.
c. 15	Robbery ...	Ditto	Ditto.
43 Eliz., c. 7	Robbing orchards	Ditto	Ditto.
1 Jac. 1, c. 8	Stabbing ...	Ditto	Ditto.
c. 11	Bigamy ...	Ditto	Ditto.
3 Jac. 1, c. 13	Deer-stealing, &c.	Ditto	Ditto.
7 Jac. 1, c. 5	Action ...	Ditto	Act XII of 1873.
c. 13	Deer-stealing, &c.	Ditto	9 Geo. 4, c. 74, s. 125.
21 Jac. 1, c. 12	Action ...	Ditto	Act XII of 1873.
c. 16	Limitation ...	Ditto	Act IX of 1871, s. 2.
15 Char. 2, c. 2	Destroying trees..	Ditto	9 Geo. 4, c. 74, s. 125.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
22 Char. 2, c. 5	Benefit of clergy..	The whole	9 Geo. 4, c. 74, s. 125.
22 & 23 Char. 2, c. 1	Maiming ...	Ditto	Ditto.
c. 7	Burning houses, &c.	Ditto	Ditto.
c. 11	Merchant shipping, salvage.	In part	Ditto.
29 Char. 2, c. 3	Statute of Frauds	Sections 5, 6, 12, 19, 20, 21, 22 except as to wills made before 1st February 1839.	Act XXV of 1838.
		Sections 1, 2, 3, 4 & 17*...	Act IX of 1872 s. 1.
		Sections 13, 14, 15, 16, 17, 22, 23, 24.	Act XII of 1873.
3 Wm. & Mar., c. 9	Benefit of clergy..	The whole	9 Geo. 4, c. 74 s. 125.
8 & 9 Wm. 3, c. 11	Abatement, &c...	Ditto	Act XII of 1873.
9 Wm. 3, c. 44	India ..	The whole, except sections 35, 42, 52, 53, 60, 61, 62, 64, 65.†	30 & 31 Vic., c. 59.
		Sec. 35, (45 Ruffhead) ...	34 & 35 Vic., c. 116.
10 Wm. 3, c. 12 (c. 23, Ruffhead)	Indictment: Witness.	In part	9 Geo. 4, c. 74, s. 125.
11 Wm. 3, c. 7	Piracy .	Ditto	Ditto.
1 Ann., Stat. 2, c. 9	Witnesses ...	Ditto	Ditto.
4 & 5 Ann., c. 3 (c. 16 Ruffhead)	Account, Amendment, &c. Wills	So much as relates to witnesses to nuncupative wills made before 1st February 1839.	Act XXV of 1838, s. 2.
		Sections 17, 18, 19, ...	Act IX of 1871, s. 2.
6 Ann., c. 9, (c. 6 Ruffhead)	Burglaries ...	The whole	9 Geo. 4, c. 74, s. 125.

* This is section XVI in the Statutes Revised.

† These are respectively sections 45, 52, 62, 63, 70, 71, 72, 74 and 75 in Ruffhead.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
6 Ann. c. 37, (c. 3, Ruffhead)	Duties on E. I. goods.	The whole	6 Geo. 4, c. 105.
6 Ann. c. 71, (c. 17, Ruffhead)	E. I. Company...	Ditto	30 & 31 Vic., c. 59.
9 Ann. c. 7	Directors ...	Ditto	Ditto.
c. 15	S. Sea Company	The whole (except the two last sections, which do not affect India).	Ditto.
c. 21, (c. 16, Ruffhead)	Assaulting Privy Councillor.	The whole	9 Geo. 4, c. 74, s. 125.
10 Ann. c. 35, (c. 28, Ruffhead)	E. I. Company...	Ditto	30 & 31 Vic., c. 59.
12 Ann. c. 7	Robbery in houses.	Ditto	9 Geo. 4, c. 74, s. 125.
1 Geo. 1, Stat. 2— c. 5	Riot ...	In part	Ditto.
c. 48	Timber trees ...	The whole	Ditto.
4 Geo. 1, c. 11	Piracy ...	In part	Ditto.
5 Geo. 1, c. 21	Trade to the E. I.	The whole	33 Geo. 3, c. 52, s. 146.
c. 28	Deer ...	Ditto	9 Geo. 4, c. 74, s. 125.
6 Geo. 1, c. 16	Timber ...	Ditto	Ditto.
7 Geo. 1, Stat. 1— c. 5	S.S. Co. & E. I. Co.	Ditto	33 & 34 Vic., c. 69.
c. 21	Trade ...	Ditto	30 & 31 Vic., c. 59.
9 Geo. 1, c. 22	Criminal law ...	Ditto	9 Geo. 4, c. 74, s. 125.
c. 26	Trade ...	Ditto	33 Geo. 3, c. 52, s. 146.
12 Geo. 1, c. 34	Master and servant.	In part	9 Geo. 4, c. 74, s. 125.
13 Geo. 1, c. 8	S.S. Co. & E. I. Co.	The whole	30 & 31 Vic., c. 59.
2 Geo. 2, c. 21	Murder ...	Ditto	9 Geo. 4, c. 74, s. 125.
2 Geo. 2, c. 25	Perjury	Section 5	34 & 35 Vic., c. 116.
		The last section ...	30 & 31 Vic., c. 59, and see 9 Geo. 4, c. 74, s. 125.
3 Geo. 2, c. 14	E. I. Company...	The whole, except section 14.	30 & 31 Vic., c. 59.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
4 Geo. 2, c. 32	Lead ...	The whole	9 Geo. 4, c. 74 s. 125.
5 Geo. 2, c. 29	Trade ...	Ditto	30 & 31 Vic., c. 59.
6 Geo. 2, c. 37	Perpetuation of laws.	Ditto	9 Geo. 4, c. 74 s. 125.
8 Geo. 2, c. 16	Hue and cry ...	Ditto	Ditto.
c. 20	Destruction of turnpikes, &c.	Ditto	Ditto.
11 Geo. 2, c. 22	Corn ...	In part	Ditto.
13 Geo. 2, c. 21	Destruction of coal-works.	The whole	Ditto.
14 Geo. 2, c. 6	Cattle-stealing ...	Ditto	Ditto.
c. 20	Common recoveries, &c.	So much as relates to estates *pur autre vie*.	Act XXV of 1838 s. 2.
17 Geo. 2, c. 17	Agreement with Company.	The whole	30 & 31 Vic., c. 59.
22 Geo. 2, c. 24	Hue and cry ...	Ditto	9 Geo. 4, c. 74 s. 125.
c. 27	Master and servant.	Ditto	Ditto.
23 Geo. 2, c. 22	Empowering Company to raise money by annuities.	The whole, except so far as relates to interest on the debt from the public to the Bank of England.	33 & 34 Vic., c. 69.
24 Geo. 2, c. 44	Justices of the Peace.	The whole	Act XII of 1873.
25 Geo. 2, c. 10	Stealing black lead.	Ditto	9 Geo. 4, c. 74, s. 125.
25 Geo. 2, c. 37	Rescue murder...	In part	Ditto.
27 Geo. 2, c. 9	Mutiny ...	The whole	30 & 31 Vic., c. 59.
29 Geo. 2, c. 30	Stealing lead	Ditto	9 Geo. 4, c. 74, s. 125.
c. 36	Poor ...	Ditto	Ditto.
1 Geo. 3, c. 14	Courts martial ...	Ditto	30 & 31 Vic., c. 59.
2 Geo. 3, c. 29	House-doves ...	Ditto	9 Geo. 4, c. 74, s. 125.
4 Geo. 3, c. 12	Continuance of laws.	Ditto.	Ditto.
c. 31	Trees ...	Ditto.	Ditto.
5 Geo. 3, c. 14	Preservation of fish and conies.	Ditto.	Ditto.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
7 Geo. 3, c. 49	Company's General Courts.	Sections 1 & 2 ...	30 & 31 Vic., c. 59.
c. 57	E. I. Company ...	The whole	Ditto.
8 Geo. 3, c. 11	Ditto ...	Ditto	Ditto.
9 Geo. 3, c. 24	Ditto ...	Ditto	Ditto.
c. 29	Malicious injuries	Ditto	9 Geo. 4, c. 74, s. 125.
10 Geo. 3, c. 18	Dog-stealing ...	Ditto	Ditto.
10 Geo. 3, c. 47	Company's servants.	Sections 1 & 2 ...	33 Geo. 3, c. 52, s. 146.
c. 48	Receiving stolen jewels.	The whole	9 Geo. 4, c. 74, s. 125.
2 Geo. 3, c. 7	E. I. Company ...	Ditto	34 & 35 Vic., c. 116.
c. 54	Ships ...	Ditto	24 & 25 Vic., c. 101.
3 Geo. 3, c. 9	E. I. Company ...	Ditto	34 & 35 Vic., c. 116.
c. 32	Malicious injury, Theft.	Ditto	9 Geo. 4, c. 74, s. 125.
c. 63	E. I. Company ...	Sections 16, 19, 20, 27, 28, 29, 31, 33, 36 and the last sentence of sec. 38.	Act XIV of 1870.
		Section 18	Act VI of 1874.
		Section 30	Act XXVIII of 1855.
		So much as relates to the commencement of salaries (sec. 22).	53 Geo. 3, c. 155, s. 89.
		Other portions ...	24 Geo. 3 (sess. 2), c. 25, s. 47. 33 Geo. 3, c. 52, s. 146. 3 & 4 Wm. 4, c 85, s. 28.
c. 64	E. I. Company ...	The whole	34 & 35 Vic., c. 116.
14 Geo. 3, c. 34	Trade ...	Ditto	Ditto.
15 Geo. 3, c. 44	E. I. Company ...	Ditto	Ditto.
16 Geo. 3, c. 30	Stealing deer ...	Ditto	9 Geo. 4, c. 74, s. 125.
c. 51	E. I. Company ...	Ditto	34 & 35 Vic., c. 116.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
17 Geo. 3, c. 8	E. I. Company ...	The whole	24 & 25 Vic., c. 101
19 Geo. 3, c. 61	Ditto ...	Ditto	34 & 35 Vic., c. 116
20 Geo. 3, cc. 56 & 58.	Ditto ...	Ditto	Ditto.
21 Geo. 3, c. 65	Ditto ...	Ditto	35 & 36 Vic., c. 6
c. 70	Governor General, Supreme Court.	Sections 9, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28.	Act XIV of 1870. 35 & 36 Vic., c. 63.
22 Geo. 3, c. 51	E. I. Company ...	The whole	34 & 35 Vic., c. 116
c. 75	Patent Offices ...	Section 1	Ditto.
23 Geo. 3, c. 36	E. I. Company ...	The whole	35 & 36 Vic., c. 63.
c. 83	Ditto ...	Ditto	24 & 25 Vic., c. 101
24 Geo. 3, sess. 1— c. 3	Ditto ...	Ditto	34 & 35 Vic., c. 116
24 Geo. 3, sess. 2— c. 2	Ditto ..	Ditto	Ditto.
c. 25	Trial of offences committed in India.	Sections 1 to 63 (inclusive)	35 & 36 Vic., c. 63.
c. 34	E. I. Company ..	The whole	24 & 25 Vic., c. 101.
26 Geo. 3, c. 16	Ditto ...	The whole, except such parts as repealed former Acts.	33 Geo. 3, c. 52, s. 146.
c. 25	Fort William ...	The whole	24 & 25 Vic., c. 101.
c. 57	Trial of offences committed in India.	Section 29	Act XI of 1872.
		Sections 31, 36 and 37 ...	35 & 36 Vic., c. 63.
		Sections 32, 33, 34 and 35..	33 Geo. 3, c. 52, s. 146.
		In section 38, the words "and, in like manner, all Courts of Justice in the East Indies shall admit the like proof of the execution of bonds and other deeds and writings executed in Great Britain, and witnessed by any person or persons resident in Great Britain:"	Act I of 1872, s. 2.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
26 Geo. 3, c. 8	E. I. Company ...	The whole	35 & 36 Vic., c. 63.
30 Geo. 3, c. 48	Treason ...	In part	9 Geo. 4, c. 74, s. 125.
31 Geo. 3, c. 10	Expenses of Army	The whole	34 & 35 Vic., c. 116.
c. 11	Sale of annuities	In part	33 Geo. 3, c. 47, s. 1.
c. 35	Evidence ...	The whole	9 Geo. 4, c. 74, s. 125.
c. 40	East Indies ...	Ditto	34 & 35 Vic., c. 116.
33 Geo. 3, c. 47	E. I. Annuities ...	Sections 1 to 7 (both inclusive)	33 & 34 Vic., c. 69.
33 Geo. 3, c. 52	Government of India.	Section 28	Act XII of 1873.
		Section 56	24 & 25 Vic., c. 54, s. 7.
		Section 61	Act XIV of 1870.
		Section 67	Act XI of 1872.*
		Sections 71 to 136 ...	35 & 36 Vic., c. 63.
		The last sentence of section 137.	Act XIV of 1870.
		Sections 138 and 139 ...	35 & 36 Vic., c. 63.
		Sections 142 to 150 ...	
		Sections 151 and 152 ..	Act II of 1869.
		Section 155 ...	Act XIV of 1870.
		Section 157 ...	Act IV of 1871.
		Section 158 ..	Act XXV of 1858.
		Section 159 ...	Act XIV of 1870.
		Section 162, as to civil suits in British India.	Act IX of 1871, s. 2.
		Other portions ...	47 Geo. 3, sess. 2, c. 68, s. 6. 51 Geo. 3, c. 75, s. 1. 53 Geo. 3, c. 155, ss. 23, 26, 61, 74. 4 & 5 Wm. 4, c. 33. 7 Wm 4 & 1 Vic., c. 70, s. 4.
c. 67	Ship ...	In part	9 Geo. 4, c. 74, s. 125.
35 Geo. 3, c. 67	Bigamy ...	The whole	Ditto.

* The repeal of section 67 purports to be unqualified, but of course it cannot affect the Courts of Great Britain.

†

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
36 Geo. 3, c. 9	Corn ...	The whole	9 Geo. 4, c. 74, s. 125
36 Geo. 3, c. 120	E. I. Company ...	Ditto	34 & 35 Vic., c. 116
37 Geo. 3, c. 31	Ditto ...	Ditto	35 & 36 Vic., c. 65
c. 74	Ditto ...	Ditto	34 & 35 Vic., c. 116
c. 117	Trade with India	Ditto	12 & 13 Vic., c. 29 s. 1.
c. 142	Administration of justice at Presidency towns.	Sections 4, 5, 6, 7, 8, 15, 17 to 26 (both inclusive) and 30.	Act XIV of 1870 also Rep. in part by 53 Geo. 3 c. 155, s. 89, 4 Geo. 4, c. 71, s. 14.
		Section 16	Act VI of 1874.
39 Geo. 3, c. 89	E. I. Company .	The whole	58 Geo. 3, c. 83, s. 1
c. 109	Forces of the E. I. Company.	Ditto	34 & 35 Vic., c. 116
39 & 40 Geo. 3—			
c. 36	Transfer of E. I. stocks.	Section 3	34 & 35 Vic., c. 116
		In section 4, the words "or the Governor and company of merchants of Great Britain trading to the South Seas or other parts of America."	34 & 35 Vic., c. 116
c. 79	Government of India: Administration of justice.	Sections 4, 6, 8, 10, 11, 17, 18, 19, 21, 22, 23 and 24.	Act XIV of 1870.
		So much of section 7 as relates to the commencement of the salaries of the Judges of the Madras Supreme Court.	53 Geo. 3, c. 146, s. 89.
		So much as relates to the time of residence entitling to pensions and the limitation of their amount.	4 Geo. 4, c. 71 s. 14.
		Sections 13, 14, 15, 16 ...	9 Geo. 4, c. 74, s. 126.
11 Geo. 3 (G.B.)—c. 35	Importation of hemp from India.	The whole	24 & 25 Vic., c. 101.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
41 Geo. 3 (U.K.)— c. 24	Malicious injury..	The whole	9 Geo. 4, c. 74, s. 125.
42 Geo. 3, c. 29	Fort Marlborough	Ditto	35 & 36 Vic., c. 63.
c. 67	Malicious injury..	Ditto	9 Geo. 4, c. 74, s. 125.
c. 85	Public officers ...	Section 6, as to British India.	Act XII of 1873.
c. 107	Deer stealing ...	The whole	9 Geo. 4, c. 74, s. 125.
43 Geo. 3, c. 48	E. I. Company ...	Ditto	24 & 25 Vic., c. 101.
c. 58	Malicious shooting or stabbing.	Ditto	9 Geo. 4, c. 74, s. 125.
c. 63	E. I. Company ...	Ditto	35 & 36 Vic., c. 63.
c. 137	Ditto ...	Ditto	Ditto.
44 Geo. 3, c. 3	Bonds of E. I. Company.	Ditto	Ditto.
c. 72	Piece-goods ...	Ditto	Ditto.
45 Geo. 3, c. 36	Forces of E. I. Company.	Ditto	Ditto.
46 Geo. 3, c. 85	E. I. Company ...	Ditto	Ditto.
47 Geo. 3 (sess. 2) c. 41	Power to Company to raise money on bond.	Ditto	36 & 37 Vic., c. 91.
c. 68	Government of Madras: Bombay Banks.	The first three sections ...	35 & 36 Vic., c. 97.
		Sections 4 and 5 ...	Act II of 1869.
		Section 6	Act II of 1869, and also by 35 & 36 Vic., c. 97.
		Section 7	35 & 36 Vic., c. 97.
48 Geo. 3, c. 30	Trade between Ireland and India.	The whole	24 & 25 Vic., c. 101.
49 Geo. 3, c. 126	Sale of offices ...	In the Preamble, the words "the Master General and principal officers of His Majesty's Ordnance,..... the Secretary at War, the Paymaster-General	35 & 36 Vic., c. 97.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
		of his Majesty's Forces, the Commissioners for the Affairs of India, the Commissioners of the Excise, the Treasurer of the Navy, the Commissioners of the Navy, the Commissioners for Victualling, the Commissioners of Transports, the Commissary General, the Storekeeper General." Sections 7 and 8. In section 9, from and including the words "or to render invalid" to the end of the section. Section 12. Section 15.	35 & 36 Vic., c. 97.
50 Geo. 3, c. 86	E. I. Company ...	The whole	58 Geo. 3, c. 83, s. 1.
c. 87	Recruits: Courts martial.	The whole, except section 7.	35 & 36 Vic, c. 97.
51 Geo. 3, c. 64	Power to raise money on bond.	The whole, except sections 4 and 5.	36 & 37 Vic., c. 91.
c. 75	Salaries: Restoration to service of military officers.	In part	53 Geo. 3, c. 155, s. 90.
		Sections 1, 2, 3, 5, 6 ...	58 Geo. 3, c. 83, s. 1. 36 & 37 Vic., c. 91.
c. 120	Deer-stealing ...	The whole	9 Geo. 4, c. 74, s. 125.
52 Geo. 3, c. 10	E. I. Company ...	Ditto	36 & 37 Vic., c. 91.
c. 63	Embezzlement ...	Ditto	9 Geo. 4, c. 74, s. 125.
c. 121	Transfer to India of Company's debts.	Ditto	36 & 37 Vic., c. 91.
c. 122	Recruits for Company's Army.	Ditto	Ditto.
c. 130	Malicious injury	Ditto	9 Geo. 4, c. 74, s. 125.
c. 135	Advance to E. I. Company.	Ditto	24 & 25 Vic., c. 101.

TABLE C.

Repealed Statutes—(continued)

Year, chapter and reign.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
53 Geo. 3, c. 155	Government of India.	Sections 1—32, 40, 41, 44—48, 54—78, 80, 81, 83, 87, 88, 90, 91, 92, 95, 106, 107, 112—122, 125.	36 & 37 Vic., c. 91.
		Section 97	Act XII of 1873.
		Sections 98, 99, 101, 104	Act XIV of 1870.
		Section 105	Act X of 1872.
		Section 107	Act XI of 1836.
		Sections 108, 109	Act XIV of 1870, and 36 & 37 Vic., c. 91.
		Section 112	Act II of 1869.
		Sections 113 and 122	Act XIV of 1870.
		Sections 114 to 120 (both inclusive).	9 Geo. 4, c. 74, s. 126.
		Section 121 ...	Act XII of 1873.
		Section 123, as to British India.	Ditto.
		Section 124, as to British India.	Act IX of 1871, s. 2.
			See also the following partial repeals :—
			4 Geo. 4, c. 71, s. 2.
			4 Geo. 4, c. 80, ss. 1, 12.
			4 Geo. 4, c. 81, s. 57 (which is repealed, 3 & 4 Vic., c. 37, s. 59, without a saving.)
			3 & 4 Wm. 4, c. 85, s. 3.
			16 & 17 Vic., c. 95, s. 36.
53 Geo. 3, c. 162	Imprisonment with hard labour.	In part	9 Geo. 4, c. 74, s. 125.
54 Geo. 3, c. 34	Trade	The whole ..	4 Geo. 4, c. 80, s. 1.
c. 35	Ditto ...	Ditto ..	36 & 37 Vic., c. 91.
c. 36	Ditto .	Ditto	24 & 25 Vic., c. 101.
c. 105	Taxes levied in India.	Ditto ..	Act XIV of 1870, and also by 36 & 37 Vic., c. 91.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
54 Geo. 3, c. 134	Trade ..	In part	4 Geo. 4, c. 80, s. 24.
55 Geo. 3, c. 10	Duties on E. I. goods.	The whole	6 Geo. 4, c. 105.
c. 64	Gratuities ...	Ditto	36 & 37 Vic., c. 91.
c. 84	Limits of Presidency towns, &c.	Sections 2 to 9 (inclusive)	Act XIV of 1870, and also 36 & 37 Vic., c. 91.
c. 116	Registry of ships.	The whole	4 Geo. 4, c. 80, s. 1 (but see 3 & 4 Vic., c. 56, ss. 1, 2).
56 Geo. 3, c. 82	Surrogates of Vice-Admiralty Courts.	The whole, except as to India.	26 & 27 Vic., c. 24, s. 24.
c. 125	Malicious injury..	The whole	9 Geo. 4, c. 74, s. 125.
57 Geo. 3, c. 19	Freemasons, &c.	Ditto ..	Ditto.
c. 36	Trade ...	Ditto	4 Geo. 4, c. 80, s. 1.
c. 120	E. I. Company ...	Ditto	36 & 37 Vic., c. 91.
58 Geo. 3, c. 83	Hiring ships by E. I. Company.	Ditto . ..	Ditto.
c. 84	Marriages ...	Ditto	Act XV of 1872, and also 36 & 37 Vic., c. 91.
59 Geo. 3, c. 69	Foreign enlistment.	Ditto	33 & 34 Vic., c. 90, s. 33.
1 Geo. 4, c. 56	Malicious trespass.	Ditto	9 Geo. 4, c. 74, s. 125.
c. 90	Offences at sea...	In part	Ditto.
c. 99	E. I. Company ..	The whole	24 & 25 Vic., c. 101.
c. 117	Stealing in shops	Ditto	9 Geo. 4, c. 74, s. 125.
1 & 2 Geo. 4—			
c. 61	Prize-money ...	Ditto	36 & 37 Vic., c. 91.
c. 65	Trade ...	Ditto	4 Geo. 4, c. 80, s. 1.
c. 88	Assault ...	In part	9 Geo. 4, c. 74, s. 125.
3 Geo. 4, c. 24	Receivers of stolen goods.	The whole	Ditto.
c. 114	Hard labour ..	In part	Ditto.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
4 Geo. 4, c. 71	Pensions ...	Sections 1, 2, 8, 15, 16, 18.	
		Sections 8, 9, 10,	s. 1.
c. 80	Trade ...	The whole Act, except the parts relating to lascars being Natives of British India.	3 & 4 Wm. 4, c. 93, s. 1.
		Section 20	12 & 13 Vic., c. 29, s. 1.
		The whole Act, except sections 25—34.	36 & 37 Vic., c. 91.
c. 81	E. I. Co.'s service	The whole	3 & 4 Vic., c. 37, s. 59.
5 Geo. 4, c. 76	Duties on Indian goods.	The whole	6 Geo. 4, c. 105.
c. 88	E. I. Company...	Ditto	Ditto.
c. 108	Straits Settlements	Ditto	36 & 37 Vic., c. 91.
c. 113	Slave trade ...	The whole Act, except sections 2 to 11, section 12 down to "taken to be in full force" and sections 39, 40 and 47.	36 & 37 Vic., c. 88.
6 Geo. 4, c. 61	Army ...	The whole	26 & 27 Vic., c. 57, s. 3.
c. 85	Judges' salaries and pensions.	Section 3	36 & 37 Vic, c. 91.
		Section 6	Act XIV of 1870, and 36 & 37 Vic., c. 91.
		Section 17	24 & 25 Vic., c. 101.
		Sec. 18 in part and sections 19 and 21.	36 & 37 Vic., c. 91.
cc. 107 & 114	Prohibitions of importation of China goods and tea.	The whole	3 & 4 Wm. 4, c. 50, s. 2.
c. 133	Apothecaries ...	Ditto	36 & 37 Vic., c. 91.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
7 Geo. 4, c. 37	Juries ...	The whole	Act XIV of 1870, and 36 & 37 Vic., c. 91 (it had been repealed in part by 2 & 3 Wm. 4, c. 117, s. 2).
56	Writers ...	The whole, except section 3	36 & 37 Vic., c. 91.
69	Stealing from gardens.	The whole	9 Geo. 4, c. 74, s. 125.
9 Geo. 4, c. 33	Liability of real estate of British subjects.	The whole, except as to the estates of persons dying before 1st January 1866.	Act XIV of 1870, and 36 & 37 Vic., c. 91.
c. 50	Prize-money ...	Sections 1 and 2 ...	36 & 37 Vic., c. 91.
c. 72	Bombay Marine...	The whole	24 & 25 Vic., c. 101.
c. 74	Criminal Procedure	The whole, except sections 1 to 10 (inclusive), 13, 14, 15, 21, 23 to 26 (inclusive), 36, 37, 51, 52, 56 and 110.*	Act XXVII of 1870.
		Sections 5 and 6 and (so far as it relates to Coroners) section 51.	Act IV of 1871.
		Sections 36 and 37 ...	Act X of 1873.
		Section 51, so far as it relates to civil suits.	Act IX of 1871, s. 2.
10 Geo. 4, c. 16	Haileybury ...	The whole	24 & 25 Vic., c. 101.
11 Geo. 4 & 1 Wm. 4, c. 55.	Slave trade ...	Ditto	36 & 37 Vic., c. 88.
11 Geo. 4 & 1 Wm. 4, c. 75	Registrar, Supreme Court, Madras.	Ditto	Act XIV of 1870, also 36 & 37 Vic., c. 91.
2 & 3 Wm. 4—			
c. 51	Vice-Admiralty Courts.	The whole, except as to India.	26 & 27 Vic., c. 24, s. 24.
c. 117	Justices of the Peace and Juries.	The whole	Act II of 1869.
3 & 4 Wm. 4—			
c. 41	Privy Council ...	Sections 22, 25, 26 and 27...	24 & 25 Vic., c. 101. See also 6 & 7 Vic., c. 38, s. 6, 14 & 15 Vic., c. 83, s. 16.

* Sections 38, 59—61, 0, 81, 82, 84, 85, part of 90, 114, 117, 119 and 123 had previously been repealed by Act XXXI of 1838.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
3 & 4 Wm. 4—			
c. 49 & 82	Affirmations ...	So far as they ... British India.	
c. 85	Government of India.	Section 49 ...	
		Section 70 ...	... c., cap. 67, s. 2.
		So much of section 40 as prohibits the fourth ordinary member sitting or voting except at legislative meetings.	16 & 17 Vic., c. 95, s. 21.
c. 93	Trade ...	In part	6 & 7 Vic., c. 80, s. 5.
4 & 5 Wm. 4—			
c. 24	Pensions ...	Sections 10, 11, 13, 14, 15, 17, 19 and 24.	22 Vic., c. 26.
		Section 27	20 & 21 Vic., c. 37.
c. 79	Insolvent debtors	The whole ...	11 & 12 Vic., c. 21, s. 1.
5 & 6 Wm. 4—			
c. 6	Indemnity to Governor General.	Ditto	Act XIV of 1870.
c. 62	Oaths and declarations.	So far as it applies to British India.	Act X of 1873.
7 Wm. 4 & 1 Vic., c. 70	Haileybury ...	Sections 1, 2, 3 and 7. So much of section 5 as relates to admissions to Haileybury College.	24 & 25 Vic., c. 101.
1 & 2 Vic., c. 22	Ditto ...	The whole	Ditto.
c. 77	Affirmations ...	So far as it applies to British India.	Act X of 1873.
c. 110	Arrest on mesne process: Insolvency.	Sections 23, 54 and 56 ...	32 & 33 Vic., c. 83.
2 & 3 Vic., c. 34	Rules of Supreme Courts.	The whole	Act XII of 1873.
3 & 4 Vic., c. 37	Mutiny.	The whole Act, except sections 43 to 47 (both inclusive).	12 & 13 Vic., c. 43, s. 74.

TABLE C.

Repealed Statutes—(continued).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
	Indian Navy.	Sections 43 to 47 (inclusive).	Act XII of 1873.
5 & 6 Vic., c. 101	Slave trade ...	The whole ...	36 & 37 Vic., c. 88.
6 & 7 Vic. c. 75	Extradition ...	Ditto	33 & 34 Vic., c. 52.
c. 76	Ditto ...	Ditto	Ditto.
c. 94	Foreign jurisdiction.	Section 7, so far as it applies to British India.	Act IX of 1871, s. 2.
c. 98	Slave trade ...	Section 3	36 & 37 Vic., c. 88.
9 & 10 Vic., c. 14	Insolvent debtors	The whole	11 & 12 Vic., c. 21, s. 1.
c. 91	Crown appointments.	Ditto	26 & 27 Vic., c. 76, s. 4.
10 & 11 Vic., c. 62	Naval prisons ...	Sections 1 to 8 inclusive...	23 & 24 Vic., c. 123.
		Section 11	29 & 30 Vic., c. 109.
11 & 12 Vic., c. 21	Insolvency ...	Sections 1, 65, 66 and 67	Act XIV of 1870.
		Section 42	Act IX of 1872, s. 1.
c. 128	Slave trade (Muscat).	The whole	36 & 37 Vic., c. 88.
12 & 13 Vic., c. 43	Mutiny, Regimental debts.	Ditto	20 & 21 Vic., c. 66, s. 75.
12 & 13 Vic., c. 84	Slave trade (Persian Gulf).	Ditto	36 & 37 Vic., c. 88.
c. 96	Offences committed within jurisdiction of Admiralty.	The exception in section 5.	23 & 24 Vic., c. 88.
c. 106	Bankruptcy ...	The whole	32 & 33 Vic., c. 83.
14 & 15 Vic., c. 40	Marriages ...	Ditto	Act XV of 1872, s. 2.
16 & 17 Vic., c. 16	Slave trade (Sohar Chief).	Ditto	36 & 37 Vic., c. 88.
c. 95	Government of India.	Section 9, so far as it requires any of the Directors to be persons who have resided ten years in India.	21 & 22 Vic., c. 106, s. 69.
		In section 13, the words "in the administration of the Government of India in trust for the Crown."	Ditto.
		Section 18	28 Vic., c. 17, s. 3.
		Section 31, as to limit of number of European troops.	22 & 23 Vic., c. 27.

TABLE C.

Repealed Statutes—(concluded).

Year, reign and chapter.	Subject-matter.	Extent of repeal.	Repealing Statute or Act.
		Sections 37—42 (both inclusive) so far as relates to Civilians.	21 & 22 Vic., c. 106, s. 36. And see 24 & 25 Vic., c. 67, s. 2.
17 & 18 Vic., c. 104	Merchant shipping ...	Section 9, as to British India.	Act XIV of 1870,
		Sections 295 to 300 (inclusive), 322, 323, 504 and 505.	25 & 26 Vic., c. 63, s. 2.
		Sections 224, 227 and 231.	30 & 31 Vic., c. 124, s. 3.
		Sections 25 and 34 ...	34 & 35 Vic., c. 110, s. 12.
		Section 304	35 & 36 Vic., c. 73, s. 8.
18 & 19 Vic., c. 91.	Merchant shipping..	Section 13	34 & 35 Vic., c. 110, s. 12.
20 & 21 Vic., c. 66	Mutiny ...	The whole	26 & 27 Vic., c. 48, s. 1.
21 & 22 Vic., c. 106	Government of India.	Section 14	32 & 33 Vic., c. 97, s. 5, and see 24 & 25 Vic., c. 95, s. 1.
22 Vic., c. 11	Raising money for Government of India.	Section 10	24 & 25 Vic., c. 95, s. 1.
22 & 23 Vic., c. 27	Army ...	So far as it authorises the Secretary of state in Council to give directions for raising European forces for Indian Army.	23 & 24 Vic., c. 100,
22 & 23 Vic., c. 39	Raising money for Government of India.	Section 13	24 & 25 Vic., c. 95, s. 1.
23 & 24 Vic., c. 130	Ditto ...	Section 13	Ditto.
24 & 25 Vic., c. 104	High Courts ...	Sections 10 and 18 ...	28 & 29 Vic., c. 15, s. 2.
29 & 30 Vic., c. 121	Extradition ...	The whole	33 & 34 Vic., c. 52, s. 27.
32 & 33 Vic., c. 75	Slave trade, Zanzibar.	Ditto	36 & 37 Vic., c. 59.
c. 77	Basses light ...	Sections 5 and 7 ...	35 & 36 Vic., c. 55, s. 8.

A COLLECTION

OF

STATUTES IN FORCE IN INDIA.

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52 HENRY III. A. D. 1267.

Chap. I. Of wrongful distresses, or defiances of the King's courts.

WHEREAS at the time of a commotion late stirred up within this realm, and also sithence, many great men, and divers other, [refusing to be justified[1]] by the King and his court, like as they ought and were wont in time of the King's noble progenitors, and also in his time; but took great revenges and distresses of their neighbours, and of other, until they had amends and fines at their own pleasure; and further, some of them [would not be justified[2]] by the King's officers, nor [would[3]] suffer them to make delivery of such distresses as they had taken of their own authority [[4]]; it is provided, agreed, and granted, that all persons, as well of high as of low estate, shall [[5]] receive justice in the King's court; and none from henceforth shall take any such revenge or distress of his own authority, without award of [our[6]] court, though he have damage or injury, whereby he would have amends of his neighbour either higher or lower.

Punishment for unlawful distresses.

And upon the foresaid article it is provided and granted, that if any from henceforth take such revenges of his own authority, without award of the King's court as before is said, and be convict thereof, he shall be punished by fine, and that according to the trespass; and likewise if one neighbour take a distress of another without award of the King's court, whereby he hath damage, he shall be punished in the same wise, and that after the quantity of the trespass; and nevertheless sufficient and full amends shall be made to them that have sustained loss by such distresses.

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Chap. III. Of resisting the King's officers in replevins.

If any, of what estate soever he be, will not suffer such distresses as he hath taken, to be delivered by the King's officers, after the law and custom of the realm, or will not suffer summons, attachments, or executions of

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[1] have disdained to be justised
[2] will not be justised
[3] will
[4] *at their own pleasure*
[5] *do, and*
[6] *the King's.*

judgments given in the King's court, to be done according to the law and custom of the realm, [as is aforesaid] he shall be punished in manner aforesaid, as one that will not obey the law, and that according to the quantity of the offence.

Distresses for services not due.

And if any, of what estate soever he be, distrain his tenant for services and customs [being due[1]] unto him, or for any other thing, for the which the lord of the fee hath cause to distrain, and after it is found that the same services are not due, the lord shall not therefore be punished by fine, as in the cases aforesaid, if he do suffer the distresses to be delivered according to the law and custom of the realm; but shall be amerced as hitherto hath been used, and the tenant shall recover his damages [2] against him.

Chap. IV. Distresses shall not be driven out of the county.

None from henceforth shall cause any distress that he hath taken, to be driven out of the county where it was [taken]; and if one neighbour do so to another of his own authority, and without judgment, he shall make fine, as above is said, as for a thing done against the peace; nevertheless, if the lord presume so to do against his tenant, he shall be grievously punished by amerciament.

Distresses shall be reasonable.

Moreover, distresses shall be reasonable, and not too great; and he that taketh [great[3]] and unreasonable distresses, shall be grievously amerced for the excess of such distresses.

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Chap. XV. In what places distresses shall not be taken.

It shall be lawful for no man from henceforth, for any manner of cause, to take distresses out of his fee, nor in the King's highway, nor in the common street; but only to the King or his officers, [having special authority to do the same].

Chap. XXI. Sheriff, upon plaint, shall make replevins.

It is provided also, that if the beasts of any man be taken, and wrongfully withholden, the sheriff, after complaint made to him thereof, may deliver them without let or gainsaying of him that took the beasts, if they were taken out of liberties: And if the beasts were taken within any liberties, and the bailiffs of the liberty will not deliver them, then the sheriff, for default of those bailiffs, shall cause them to be delivered.

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Chap. XXIII. Remedy against accountants.

It is provided also, that if bailiffs, which ought to make account to their lords, do withdraw themselves, and have no lands nor tenements whereby they may be distrained; then they shall be attached by their bodies; so that the sheriff, in whose bailiwick they be found, shall cause them to come to make their account.

Farmers shall do no waste.

Also fermors, during their terms, shall not make waste, sale, nor exile of [house[4]], woods, men, nor of anything belonging to the tenements that they

[1] *which he alledgeth to be due*
[2] *fully*
[3] *undue*
[4] houses

have to ferm, without special leence had by writing of covenant, making mention that they may do it; which thing if they do, and thereof be convict, they shall yield full damage, and shall be punished by amerciament grievously (*a*). Remedy thereon.

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13 EDWARD I. A. D. 1285.

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Chap I Several sorts of gifts of lands upon condition;

First, concerning lands that many times are given upon condition, that is to wit, where any giveth his land to any man and his wife, and to the heirs begotten of the bodies of the same man and his wife, with such condition expressed that if the same man and his wife die without [heirs[1]] of their bodies between them begotten, the land so given shall revert to the giver or his heir: In case also where one giveth lands in free marriage, which gift hath a condition annexed, though it be not expressed in the deed of gift, which is this, that if the husband and wife die without heir of their bodies begotten, the land so given shall revert to the giver or his heir: In case also where one giveth land to another, and the heirs of his body issuing; it seemed very hard, and yet seemeth to the givers and their heirs, that their will being expressed in the gift, was not heretofore, nor yet is observed: [[2]] In all the cases aforesaid, after issue begotten and born between them, to whom the lands were given under such condition, heretofore such feoffees had power to aliene the land so given, and to disherit their issue of the land, contrary to the minds of the givers, and contrary to the form expressed in the gift: And further, when the issue of such feoffee is failing, the land so given ought to return to the giver, or his heir, by form of the gift expressed in the deed, though the issue, if any were, had died: Yet by the deed and feoffment of them, to whom land was so given upon condition, the donors have heretofore been barred of their reversion, which was directly repugnant to the form of the gift: Wherefore our lord the King, perceiving how necessary and expedient it should be to provide remedy in the aforesaid cases, hath ordained, that the will of the giver, according to the form in the deed of gift manifestly expressed, shall be from henceforth observed; so that they to whom the land was given under such condition, shall have no power to aliene the land so given, but that it shall remain unto the issue of them to whom it was given after their death, or [shall revert] unto

In such gifts the donor's will shall be observed.

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[1] heir

[2] for

(*a*) The Indian Acts relating to distress, in force in the Presidency towns, are Act XXVI of 1841, sections 8 and 9 (distraint by executors and administrators), and Acts VII of 1847, IX of 1850, section 89, and XXVI of 1864, section 4 (for arrears of rent not exceeding Rs. 1,000). See also Act X of 1865, section 267 (as to distraint by an executor), and Act IX of 1871 (the Limitation Act), sched. 2, No. 29, as to suits for illegal, irregular or excessive distress. Stat. 11 & 12 Vic., cap. 21, sec. 22 (the Indian Insolvent Act), bars distresses for rent due before the vesting order.

the giver or his heirs, if issue fail [whereas[1]] there is no issue at all, or if any issue be, [and fail by death, or heir of the body of such issue failing[2].] Neither shall the second husband of any such woman, from henceforth, have any thing in the land so given upon condition, after the death of his wife, by the law of England, nor the issue of the second husband and wife shall succeed in the inheritance, but immediately after the death of the husband and wife, to whom the land was so given, it shall [come to their issue, or return unto[3]] the giver, or his heir, as before is said. And for as much as in a new case new remedy must be provided, this manner of writ shall be granted to the party that will purchase it: [Precipe A. quod juste, &c. reddat E. manerium de F. cum suis pertinentiis, quod C. dedit tali viro & tali mulieri, & hæredibus de ipsis viro & muliere exeuntibus.[4]] or thus: [Quod C. dedit tali viro in liberum maritagium cum tali muliere, & quod post mortem prædictorum viri & mulieris, prædicto B. filio eorundem viri & mulieris descendere debeat per formam donationis prædictæ, ut dicit, &c. Vel, Quod C. dedit tali & hæredibus de corpore suo exeuntibus, & quod post mortem illius talis, prædicto B. filio prædicti talis descendere debeat per formam, &c.[5]] The writ whereby the giver shall recover, when issue faileth, is common enough in the Chancery. And it is to wit that this statute shall hold place touching alienation of land contrary to the form of the gift hereafter to be made, and shall not extend to gifts made before. And if a fine be levied hereafter upon such lands, it shall be void in the law; neither shall the heirs, or such as the reversion belongeth unto, though they be of full age, within England, and out of prison, need to make their claim.

Writs of formedon in descender.

A fine shall not bar the heir in tail.

Chap. II. Mischiefs to lords distraining their tenants by replevins.

Forasmuch as lords of fees distraining their tenants for services [and customs] due unto them, are many times grieved, because their tenants do replevy the distress by writ, or without writ; and when the lords, at the complaint of their tenants, do come by attachment into the county, or unto another court, having power to hold pleas [of withernam[6],] and do avow the taking good and lawful, by reason that the tenants disavow to hold ought, nor do claim to hold any thing of him which took the distress and avowed it, he that distrained is amerced, and the tenants go quit; to whom punishment cannot be assigned for such disavowing by record of the county, or of other

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[1] *either by reason that*

[2] *it fail by death, the heir of such issue failing.*

[3] return to their issue, or to.

[4] *Command A. that justly, &c. he render to B. such a manor with the appurtenances, which C. gave to such a man, and such a woman, and to the heirs of the said man and woman issuing.*

[5] *Which C. gave to such a man in free marriage with such a woman, and which, after the death of the aforesaid man and woman, to the aforesaid B. son of the aforesaid man and woman, ought to descend, by the form of the gift aforesaid, as he saith. Or, which C. gave to such a man and the heirs of his body issuing, and which after the death of the said such a one, to the aforesaid B. son of the aforesaid such a one, ought, to descend by the form, &c.*

[6] *of a forbidden or unjust taking.*

courts having no record: It is provided and ordained from henceforth, that where such lords cannot obtain justice in counties and such manner of courts against their tenants, as soon as they shall be attached at the suit of their tenants, a writ shall be granted to them to remove the plea before the justices, afore whom, and none otherwhere, justice may be ministred unto such lords; and the cause shall be put in the writ, because such a man distrained in his fee for services and customs to him due: Neither is this act prejudicial to the law commonly used, which did not permit that any plea should be moved before justices at the suit of the defendant; for though it appear at the first shew that the tenant is plaintiff, and the lord defendant, nevertheless, having respect to that, that the lord hath distrained, and sueth for services and customs being behind, he appeareth indeed to be rather actor, or plaintiff, than defendant. And to the intent the justices may know upon what fresh seisin the lords may avow the distress reasonable upon their tenants; from henceforth it is agreed and enacted, that a reasonable distress may be avowed upon the seisin of any ancestor or predecessor [since the time that a writ of novel disseisin hath run. [1]] And because it chanceth sometimes that the tenant, after that he hath replevied his beasts, doth sell or [aliene [2]] them, whereby return cannot be made unto the lord that distrained, if it be adjudged: It is provided, that sheriffs or bailiffs from henceforth shall not only receive of the plaintiffs pledges for the pursuing of the suit, before they make deliverance of the distress, but also for the return of the beasts, if return be awarded. And if any take pledges otherwise, he shall answer for the price of the beasts, and the lord that distraineth shall have his recovery by writ, that he shall restore unto him so many beasts or cattle; and if the bailiff be not able to restore, his superior shall restore. And forasmuch as it hapneth sometime, that after the return of the beasts is awarded unto the distrainor, and the party so distrained, after that the beasts be returned, doth replevy them again, and when he seeth the distrainor appearing in the court ready to answer him, doth make default, whereby return of the beasts ought to be awarded again unto the distrainor, and so the beasts be replevied twice or thrice, and infinitely, and the judgements given in the King's court take no effect in this case, whereupon no remedy hath been yet provided; in this case such process [shall be awarded, [3]] that so soon as return of the beasts shall be awarded to the distrainor, the sheriff shall be commanded by a judicial writ to make return of the beasts unto the distrainor; in which writ it shall be expressed, that the sheriff shall not deliver them without writ, making mention of the judgement

A recordare to remove the plaint out of the county courts.

Pledges to prosecute a replevin.

Replevin of distress after judgement for return.

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[1] from the time that the writ of novel disseisin doth run.
[2] eloign
[3] is ordained M S. Tr. I.

given by the justices, which cannot be without a writ issuing out of the rolls of the said justices before whom the matter was moved. Therefore when he

Writ of second deliverance

cometh unto the justices, and desireth (1) replevin of the beasts, he shall have a judicial writ, that the sheriff taking surety for the suit, and also of the beasts or cattle to be returned, or the price of them, if return be awarded, shall deliver unto him the beasts or cattle before returned, and the distrainor shall be attached to come at a certain day before the justices, afore whom the plea [was moved [2]] in presence of the parties. And if he that replevied make

Distress irrepleviable.

default again, or for another cause return of the distress be awarded, being now twice replevied, [the [3]] distress shall remain [4] irrepleviable; but if a distress be taken of new, and for a new cause, the process abovesaid shall be observed in the same new distress.

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Chap. XXII. Waste between joint tenants, and tenants in common.

Whereas two or more do hold wood, turf-land, or fishing, or other such thing in common, wherein none knoweth his several, and some of them do waste against the minds of the other, an action may lie by a writ of waste; and when it is come unto judgement, the defendant shall choose either to take his part in a place certain, by the sheriff, and by the view, oath, and assignment of his neighbours, [sworn and tried [5]] for the same intent, or else he shall grant to take nothing from henceforth in the same wood, turf-land, and such other, but as his partners will take; and if he do choose to take his part in a place certain, the part wasted shall be assigned for his part, [as it was [6]] before he committed the waste. And [there is such a writ [7]] in this case, that is to say; [Cum A. and B. tenent boscum pro indiviso, B. fecit vastum, &c. [8]]

Chap. XXXVII. No distress but by bailiffs known and sworn.

Forasmuch also as bailiffs, to whose office it belongeth to take distresses, intending to grieve [their inferiors, [9]] that they may exact money of them, do send strangers to take distresses, to the intent that they might grieve [their inferiors [9]] by reason that the parties so distrained, not knowing such persons, will not suffer the distresses to be taken; it is provided, that no distress shall be taken, but by bailiffs sworn and known. And if they which do distrain do otherwise, and thereof be convict, if the parties grieved will purchase a writ of trespass, they shall restore damages to the parties grieved, and besides, shall be grievously punished towards the King.

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[1] again
[2] shall be handled
[3] *that*
[4] *for ever*
[5] *chosen and sworn*
[6] after as it was
[7] *the writ is such*
[8] *whereas A. and B hold wood undividedly, B. hath done waste, &c.*
[9] *those within their jurisdiction*

Chap. XXXIX. How writs shall be delivered to Sheriffs to be executed.

Forasmuch as justices, to whose office it belongeth to minister justice to all that sue before them, are many times disturbed in due execution of their office, for that sheriffs do not return writs original and judicial; and also for that they make false returns unto the King's writs; our lord the King hath provided and ordained, that such as do fear the malice of sheriffs, shall deliver their writs original and judicial in [the open county, or in the county[1]] where the collection of the King's money is; and may take of the sheriff or undersheriff, being present, a bill, wherein the names of the demandants and tenants mentioned in the writ shall be contained; and at the request of him that delivered the writ, the seal of the sheriff or undersheriff shall be put to the bill for a testimony, and mention shall be made of the day of the deliverance of the writ. And if the sheriff or undersheriff will not put his seal to the bill, the witness of knights and other credible persons being in presence shall be taken, that put their seals to such bill. And if the sheriff will not return writs delivered unto him, and complaint thereof be made to the justices, a writ judicial shall go unto the justices assigned to take assises, that they shall inquire by such as were present at the deliverance of the writ to the sheriff, if they knew of the deliverance, and an inquest shall be returned. And if it be found by the inquest, that the writ was delivered to him, damages shall be awarded to the plaintiff or demandant; having respect to the quality and quantity of the action, and to the peril that might have come to him by reason of the delay that he sustained; and by this mean there shall be remedy when the sheriff returneth that the writ came too late, whereby he could not execute the King's commandment.

Remedy for non-return of writs.

The like for false returns.

The like where a liberty is returned.

Oftentimes also pleas be delayed by reason that the sheriff returneth that he hath commanded the bailiffs of some liberty which did nothing therein, and nameth liberties that never had the return of writs; whereupon our lord the King hath ordained, that the treasurer [and barons] of the Exchequer shall deliver [to the justices] in a roll all the liberties in all shires that have return of writs. And if the sheriff answer that he hath made return to a bailiff of another liberty than is contained in the said roll, the sheriff shall be forthwith punished as a disheritor of our lord the King and his crown. And if peradventure he return that he hath delivered the writ to a bailiff of some liberty that indeed hath return, the sheriff shall be commanded, that he shall not spare for the foresaid liberty, but shall execute the King's precept; and that he do the bailiffs to wit to whom he returned the writ, that they be ready at a day contained in the writ, to answer why they did not execute the King's precept; and if they come at the day, and acquit themselves, that no return was made to them, the sheriff shall be forthwith condemned to the lord of the

[1] *the full county court, or the rere county court.*

same liberty, and likewise to the party grieved by the delay, for to render damages. And if the bailiffs come not in at the day, or do come, and do not acquit themselves in manner aforesaid, in every judicial writ, so long as the plea hangeth, the sheriff shall be commanded that he shall not spare for the liberty, &c. Many times also sheriffs make false returns as touching [these articles[1]] quod de exitibus, &c., returning sometime, and lying, that there be no issues, sometime that there are small issues, when they may return great, and sometime do make mention of no issues; whereof it is ordained and agreed, that if the plaintiff demand hearing of the sheriff's return, it shall be granted him; and if he offer to aver that the sheriff might have returned greater issues [unto the King,] he shall have a writ judicial unto the justices assigned to take assises, that they shall inquire in presence of the sheriff if he will be there of what and how great issues the sheriff might have made return from the day of the writ [purchased[2]] unto the day contained in the writ. And when the inquest is returned, if he have not afore answered for the whole, he shall be charged with the overplus by the extreats [of the justices] delivered in the Exchequer, and nevertheless shall be grievously amerced for the concealment. And let the sheriff know that rents, corn in the grange, and all moveables, except horse harness [[3]] and household stuff, be contained within the name of issues. And the King hath commanded, that sheriffs shall be punished by the justices once or twice, if need be, for such false returns; and if they offend the third time, none shall have to do therewith but the King. They make also many times false answers, returning that they could not execute the King's precept for the resistance of some great man; [wherefore[4]] let the sheriffs beware from henceforth, for such manner of answers redound much to the dishonour of the King; and as soon as his [bailiffs[5]] do testify that they found such resistance, forthwith all things set apart, taking with him the power of the shire, he shall go in proper person to do execution; and if he find his underbailiffs false, he shall punish them by imprisonment, so that other by their example may be reformed; and if he do find them true, he shall punish the resisters by imprisonment, from whence they shall not be delivered without the King's special commandment. And if percase the sheriff when he cometh do find resistance, he shall certifie to the court the names of the resisters, aiders, consenters, commanders, and favourers, and by a writ judicial they shall be attached by their bodies to appear at the [King's] court; and if they be convict of such resistance, they shall be punished at the King's pleasure. Neither shall any officer of the King's meddle in assigning the punishment,

The like for sheriff's false return of issues.

What shall be accounted issues.

Resistance of execution of process.

Punishment thereof.

[1] *this article.*
[2] *received.*
[3] *wearing apparel.*
[4] *whereof.*
[5] *underbailiffs.*

for our lord the King hath reserved it specially to himself, because that [resisters have been [1]] reputed disturbers of his peace, and of his realm.

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Chap. XLIX. Purchasing title of lands in suit.

The chancellor, treasurer, justices, nor any of the King's council, no clerk of the Chancery, nor of the Exchequer, nor of any justice or other officer, nor any of the King's house, clerk ne lay, shall not receive any church, nor advowson of a church, land, nor tenement in fee, by gift, nor by purchase, nor to farm, nor by champerty, nor otherwise, so long as the thing is in plea before us, or before any of our officers; nor shall take no reward thereof. And he that doth [contrary to this act[2]] either himself, or by any other, or make any [bargain[3]], shall be punished at the King's pleasure, as well he that purchaseth, as he doth sell.

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18 EDWARD I. A. D. 1289-90.

Chap. I.

Forasmuch as purchasers of lands and tenements of the fees of great men and [other lords,[4]] have many times heretofore entered into their fees, to the prejudice of the lords, [to whom[5]] the freeholders of such great men [[6]] have sold their lands and tenements to be holden in fee [[7]] of their feoffors, and not of the chief lords of the fees, whereby the same chief lords have many times lost their escheats, marriages, and wardships of lands and tenements belonging to their fees; which thing seemed very hard and extream unto those [lords and other great men,[8]] and moreover in this case manifest disheritance: Our Lord the King, in his Parliament at Westminster after Easter, the eighteenth year of his reign, that is to wit, in the quinzime of Saint John Baptist, at the instance of the great men of the realm, granted, provided, and ordained, that from henceforth it shall be lawful to every freeman to sell at his own pleasure his lands and tenements, or part of them; so that the feoffee shall hold the same lands or tenements of the [chief lord of the same fee, by such service[9]] and customs as his feoffor held before.

Freeholders may sell their lands; so that the feoffee do hold of the chief lord.

Chap. II. Sale of part.

And if he sell any part of such lands or tenements to any, the feoffee shall immediately hold it of the chief lord, and shall be forthwith charged with the services, for so much as pertaineth, or ought to pertain to the said chief lord for the same parcel, according to the quantity of the land or tenement [so] sold: And so in this case the same part of the service [shall remain to the lord, to be taken by the hands of the feoffee, for the which he ought[10]] to

Apportionment of services.

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[1] *such resisters are.*
[2] *any such thing*
[3] *fraud therein*
[4] *others*
[5] *to which purchasers*
[6] *and others*
[7] *to them and their heirs*
[8] *great men and other lords*
[9] *same chief lord and by the same services*
[10] *shall cease to be taken by the chief lord by the hands of the feoffor, from the time that the feoffee ought*

be attendant and answerable to the same chief lord, according to the quantity of the land or tenement sold, for the parcel of the service so due.

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25 EDWARD I. (*Magna Carta.*) A. D. 1297.

Chap. I. Confirmation of liberties.

First, we have granted to God, and by this our present charter have confirmed, for us and our heirs for ever, that the church of England shall be free, and shall have all her whole rights and liberties inviolable. We have granted also, and given to all the freemen of our realm, for us and our heirs for ever, these liberties under-written, to have and to hold to them and their heirs, of us and our heirs for ever.

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Chap. XXIX. Imprisonment, &c., contrary to law. Administration of justice.

No freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we not pass upon him, nor [condemn him,[1]] but by lawful judgment of his peers, or by the law of the land. We will sell to no man, we will not deny or defer to any man either justice or right(*a*).

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28 EDWARD I. A. D. 1300(*b*).

Chap. XI. Champerty prohibited.

And further, because the King hath heretofore ordained by statute, that none of his ministers shall take no plea [for maintenance[2]] by which statute [other officers[3]] were not bounden before this time; the King will, that no officer nor any other, for to have part of the thing in plea, shall not take upon him the business that is in suit; nor none upon any such covenant shall

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[1] deal with him

[2] to champertie,

[3] *others than officers*

(*a*) See *Re Ameer Khan*, 6 Beng. 408, where the Advocate General admitted that, within the local jurisdiction, Magna Carta would apply to British subjects. It was confirmed by another Stat. of 25 Edw. 1, called *Confirmatio cartarum*, which contains the following clause:—'And we will, that if any judgment be given from henceforth contrary to the points of the charters aforesaid by the justices, or by any other our ministers, that hold plea before them against the points of the charters it shall be undone and holden for nought.'

(*b*) "That this [champerty] is illegal both by the Common and Statute Law of England there is no doubt (Tindal C. J., 7 Bing. 378: Eldon C., 18 Ves. 129). This last case [*Wood* v. *Downes*] is important as affirming the Criminal Law of England upon this matter as stated in Hawkins. These great masters of the Law of England were therefore unaware that the doctrine of champerty and maintenance had disappeared from the law both civil and criminal. Further, the Statute (1 Hawk. P. C. 462, 8th ed.) and the Common Law which it affirmed is the law of this [the Madras High] Court. The last edition of Russell shews very clearly that it is still an indictable offence, and there is not a single case to justify the notion that the Judges have illegally repealed these Acts of Parliament," 7 Mad. H. C. Rep. 143, per Holloway J. in exercise of the original jurisdiction. That the English law of maintenance and champerty does not apply to Natives in the Mofussil, see *Pitchakutti Chetti* v. *Kamala Nayakkan*, 1 Mad. H. C. Rep. 158, see also *Grose* v. *Amirtamayi Dasi*, 4 Beng. O. J. 1 and *Dámodhar Mádhavji* v. *Kahándás Nárandas*, 8 Bomb. 1, where all the cases are reviewed. In 33 Edw. 1, *ordinacio de conspiratoribus*, champertors are thus defined: "Champertors be they that move pleas and suits (*placita*) or cause to be moved either by their own procurement, or by others, and sue them (*placita*) at their proper costs, for to have part of the land in variance or part of the gains."

give up his right to another; and if any do, and he be attainted thereof, the taker shall forfeit unto the King so much of his lands and goods as doth amount to the value of the part that he hath purchased [for such maintenance.[1]] And [for this atteindre,[2]] whosoever will, shall be received to sue for the King before the justices, before whom the plea hangeth, and the judgement shall be given by them. But it may not be understood hereby, that any person shall be prohibit to have counsel of pleaders, or of learned men in the law for his fee, or of his parents and next friends.

Forfeiture thereon.

* * * * * * *

That shall be done with them that make false returns, [3] whereby right is deferred, as it is ordained in the second Statute of Westminster, with like pain.

Chap. XVI. False returns. [*See Stat. Westm.* 2, 13 Edw. I, *ch.* 39.]

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[From henceforth,[4]] where the escheator or the sheriff [shall seize[5]] other men's lands into the King's hands where there is no cause of seiser, and after, when it is found no cause, the profits taken in the meantime have been still retained, and not restored, when the King hath removed his hand; the King will, that if hereafter any lands be so seised, and after [it be removed out of his hands[6]] by reason that he hath no cause to seize nor to hold it, the issues shall be fully restored to him to whom the land ought to remain, and which hath sustained the damage.

Chap. XIX. Return of issues, where land is seised by the King, without cause.

STATUTES OF UNCERTAIN DATE.

The Statutes of the Exchequer.

Forasmuch as the commonalty of the realm hath sustained great damage by wrongful taking of distresses, which have been made by sheriffs, and by other the King's bailiffs, for the King's debt, or for any other cause: It is therefore provided [and ordained,] that when a sheriff, or any other man doth take the beasts of other, they to whom the beasts do belong may give them their feeding without disturbance, so long as they be impounded, without giving anything for their keeping. And that the beasts, nor no other distress taken for the King's debt, nor for any other cause, be [given ne] sold within fifteen days after the taking.

Distresses of the Exchequer.

The owner may feed his cattle impounded.

Sale of distress.

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Yet it is provided, that no man of religion, nor other, shall be distrained by his beasts that gain his land, nor by his sheep, for the King's debt, nor the

No distress shall be taken of ploughing cattle, or sheep.

[1] by such taking upon him.
[2] to attaint him thereof,
[3] *to the command of the King.*
[4] *Moreover.*
[5] *seiseth.*
[6] *his hand be removed.*

debt of any other man, nor for any other cause, by the King's [or other bailiffs[1]] [but until they can find another distress,[2]] or chattels sufficient whereof they may levy the debt, or that is sufficient for the demand; except impounding of beasts that a man findeth in his ground damage-feasant, [[3]] after the use and custom of the realm. And that such distresses be reasonable, after the value of the debt or demand, [and by the estimation of neighbours, and not by strangers,[4]] and not outrageous.

Distress shall be reasonable.

STATUTE CONCERNING CONSPIRATORS.

Where it is contained in our statute that none of our court shall take any plea to champerty by craft nor by engine; and [that no[5]] pleaders, apprentices, attornies, stewards of great men, bailiffs, [nor any[6]] other of the realm, [shall take for maintenance or the like bargain, any manner of suit or plea against other,[7]] whereby all the realm is much grieved, and both rich and poor troubled in divers manners; it is provided by a common accord, that all such as from henceforth shall be attainted of such emprises, suits, or bargains, and such as consent thereunto, shall have imprisonment of three years, and shall make fine at the King's pleasure. Given at Berwick upon Tweed the twentieth year of the reign of King Edward [[8]].

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1 EDWARD III. A. D. 1326-27.

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Chap. XIV. Maintenance.

Item, because the King desireth that common right be administered to all persons, as well poor as rich; he commandeth and defendeth, that none of his counsellors, nor of his house, nor none other of his ministers, nor no great man of the realm by himself, nor by other, by sending of letters, nor otherwise, nor none other in this land, great nor small, shall take upon them to maintain quarrels nor parties in the country, to the let and disturbance of the common law.

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[illegible] III. A. D. 1328.

Chap. V. The Statute Westminster the Second 13

Item, where it [illegible] the Statute of Westminster the second, that they which [illegible] writs to the sheriff, shall deliver them in the full county, or [illegible] ty, and that the sheriff or undersheriff

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[1] *bailiffs or by an*[illegible]
[2] *so long as they* [illegible] *ess*
[3] *which a man m*[illegible]
[4] and after conve[illegible]
[5] *now*
[6] and
[7] do take pleas [illegible] her crafts all manner of pleas against all manner of men.
[8] *son of King* [illegible]

shall thereupon make a bill; it is accorded and established, that at what time or place in the county a man doth deliver any writ to the sheriff or to the under-sheriff, that they shall receive the same writs, and make a bill, after the form contained in the same statute, without taking any thing therefore; and if they refuse to make a bill, others that be present shall set to their seals; and if the sheriff or under-sheriff do not return the said writs, they shall be punished after the form contained in the same statute; and also the justices of assises shall have power to enquire thereof at every man's complaint, and to award damages, as having respect to the delay, and to the loss and peril that might happen.

Edw. I, Chap. 39, concerning the delivery of writs to the sheriff, confirmed.

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4 EDWARD III. A. D. 1330.

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Item, where in times past divers people of the realm, as well great men as other, have made alliances, confideracies, and conspiracies, to maintain parties, pleas, and quarrels, whereby divers have been wrongfully disinherited; and some ransomed and destroyed; and some, for fear to be maimed and beaten, durst not sue for their right, nor complain, nor the jurors of inquests give their verdicts, to the great hurt of the people, and [slander[1]] of the law, and common right; it is accorded, that the justices of the one bench and of the other, and the justices of assises, whensoever they come to hold their sessions, or to take inquests upon nisi prius, shall enquire, hear, and determine, as well at the King's suit, as at the suit of the party, of such maintainers, bearers and conspirators, and also of them that commit champerty, and of all other things contained in the foresaid article, as well as justices in eyre should do if they were in the same county; and that which cannot be determined before the justices of the one bench or the other upon the nisi prius, [for shortness of time,[2]] shall be adjourned into the [place[3]] whereof they be justices, and there be determined as right and reason shall require.

Chap. XI. Justices of assises and nisi prius may enquire concerning maintainers, &c.

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5 EDWARD III. A. D. 1331.

Item, it is enacted, that no man from henceforth shall be attached by any accusation, nor forejudged of life or limb, nor his lands, tenements, goods, nor chattels, seised into the King's hands, against the form of the Great Charter, and the law of the land.

Chap. IX. No unlawful attachment, &c.

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[1] arrerage and hyndrance *MS. Tr.* 2.
[2] for their brief and short abydyng in the countrie *MS. Tr.* 2.
[3] places

20 EDWARD III. A. D. 1346.

* * * * * * *

Chap. IV. None shall maintain any quarrels but their own.

Item, we have commanded and utterly defended, that none of our house, nor of them that be about us, nor other, which be towards our dear beloved companion the Queen, or our son Prince of Wales, or towards our courts, nor prelates, earls, barons, nor other great nor small of the land, of what estate or condition they be, shall not take in hand quarrels other than their own, nor the same maintain by them nor by other, privily nor apertly, for gift, promise, amity, favour, doubt, [nor fear,[1]] nor for none other cause, in disturbance of law and hindrance of right, upon the pains aforesaid; but that every man may be free to sue for and defend his right in our courts and elsewhere, according to the law: And we have straitly commanded our said son, and divers earls and other great men, being before us, that they on their behalf shall do to be kept this ordinance without default; and that they suffer none which be [towards them[2]] [[3]] to attempt against this ordinance by any way.

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25 EDWARD III. A. D. 1350-1 & 1351-2.*

Statute the First.†

Our lord the King, at his Parliament holden at Westminster, at the utas of the Purification of our Lady, the year of his reign of England the five and twentieth and of France the twelfth, considering the great mischiefs and damages which have happened to the people of his realm of England, as well because that the statutes ordained before this time have not been holden and kept as they ought to be, as because of the mortal pestilence that late reigned, and willing to provide for the quietness and common profit of his said people convenient remedy; therefore by the assent of the prelates, earls, barons, and other great men, and all the commons of his said realm summoned to the Parliament, hath ordained and established the things underwritten, videlicet: Because that some people be in doubt if the children born in the parts beyond the sea, out of the ligeance of England, should be able to demand any inheritance within the same ligeance, or not, whereof a petition was put in the Parliament

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[1] or hatred

[2] with them, any thyng to do *MS. Tr.* 2

[3] *or*

* In all former printed copies the several statutes of this year have been inaccurately arranged; the statutes of the two respective Parliaments being intermixed with each other. In the present volume they are printed according to the dates of the Parliaments, and in the order in which they are entered on the Statute Roll. The effect of this is that of the six statutes entered on the Statute Roll, Statute the Fifth is the only one which retains the same place in this volume as in all former printed copies.

† This has been given as Statute the Second of this year in all former printed copies. On the Parliament Roll of 25 Ed. III, p. 1. no. 41, is an entry of this statute, as part of a statute entitled in the margin 'Lestatut des enfantz nez par dela, des marchandises vendre,' &c.

late holden at Westminster, the seventeenth year of the reign of our lord the King that now is, and was not at the same time wholly assented; our lord the King, willing that all doubts and ambiguities should be put away, and the law in this case declared and put in a certainty, hath charged the said prelates, earls, barons, and other wise men of his council, assembled in this Parliament, to deliberate upon this point; all which of one assent have said, that the law of the crown of England is, and always hath been such, that the children of the Kings of England, in whatsoever parts they be born, in England or elsewhere, be able and ought to bear the inheritance after the death of their ancestors; which law our said lord the King, the said prelates, earls, barons, and other great men, and all the commons assembled in this Parliament, do approve and affirm for ever. And in the right of other children born out of the ligeance of England in the time of our lord the King, they be of one mind accorded, that Henry son of John de Beaumond, Elizabeth daughter of Guy de Bryan, and Giles son of Ralph Dawbeny, and other which the King will name, which were born beyond the sea, out of the ligeance of England, shall be from henceforth able to have and enjoy their inheritance after the death of their ancestors, in all parts within the ligeance of England, as well as those that should be born within the same ligeance. And that all children inheritors, which from henceforth shall be born without the ligeance of the King, whose fathers and mothers at the time of their birth be and shall be at the faith and ligeance of the King of England, shall have and enjoy the same benefits and advantages, to have and bear the inheritance within the same ligeance, as the other inheritors aforesaid in time to come; so always, that the mothers of such children do pass the sea by the licence and wills of their husbands. And if it be alledged against any such born beyond the sea, that he is a bastard, in case where the bishop ought to have cognisance of bastardy, it shall be commanded to the bishop of the place where the demand is, to certify the King's court where the plea thereof hangeth, as of old times hath been used in the case of bastardy alledged against them which were born in England.

The King's children declared inheritable in England, wheresoever born.

The children of certain persons born beyond the sea declared inheritable.

All children born beyond sea, of parents in the King's allegiance, henceforth inheritable.

Trial of bastardy in such cases.

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28 EDWARD III. A. D. 1354.

Item, that no man of what estate or condition that he be, shall be put out of land or tenement, nor taken, nor imprisoned, nor disinherited, nor put to death, without being brought in answer by due process of the law.

Chap. III. None shall be condemned without due process of law.

* * * * * * *

1 RICHARD II. A. D. 1377.

Chap IV. Penalties for maintenance.

Item, it is ordained and stablished, and the King our lord straitly commandeth, that [none of his counsellors, officers, or servants,[1]] nor any other person within the realm of England, of whatsoever estate or condition they be, shall from henceforth take nor sustain any quarrel by maintenance in the country, nor elsewhere, upon a grievous pain; that is to say, the said counsellors and the King's great officers, upon a pain which shall be ordained by the King himself, by the advice of the lords of his realm; and other less officers and servants of the King, as well in the Exchequer, and all his other courts and places, as of his own meiny, upon pain to lose their offices and services, and to be imprisoned, and then to be ransomed at the King's will, every of them according to their degree, estate, and desert; and all other persons through the realm upon pain of imprisonment, and to be ransomed as the other aforesaid. (*a*).

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7 RICHARD II. A. D. 1383.

Chap. XV. Statutes 1 Edw. III. Stat. 2, c. 14; 4 Edw. III c. 11; 1 Ric. II, c. 4; against maintenance, &c., confirmed.

Item, for the grievous complaint that is made of maintainers of quarrels, and champertors; it is ordained and assented, that the statutes thereof made in the first and fourth years of King Edward, grandfather to our lord the King that now is, and also in the first year of our lord the King that now is, shall be holden and kept, and duly executed in all points.

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23 HENRY VI. A. D. 1444-45.

Chap. IX. No sheriff shall let his county, &c., to ferm.

Item, the King, considering the great perjury, extortion, and oppression which be and have been in this realm by his sheriffs, under sheriffs, and their clerks, coroners, stewards of franchises, bailiffs, and keepers of prisons, and other officers in divers counties of this realm, hath ordained by authority aforesaid, in eschewing of all such extortion, perjury, and oppression, that no sheriff shall let to ferm in any manner, his county, nor any of his bailiwicks, hundreds, nor wapentakes; nor that the said sheriffs, under sheriffs, bailiffs of franchises, nor any other bailiff, shall return upon any writ or precept to them directed [to be returned[2]] any inquests, in any panel thereupon to be made, any bailiffs, officers, or servants to any of the officers aforesaid, in any panel by them so to be made; nor that [any[3]] of the said officers and ministers, by occasion or under colour of their office, shall take any other thing, by them nor by any other person to their use [profit[4]] or avail, of any person by them or any

No sheriff's officers or bailiffs shall be returned upon inquests.

Such officers shall not take anything of persons arrested, for ease and favour, &c.

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[1] non counsaile officer nor servaunt ne non other with hym *MS. Tr.* 2.

[2] to retorne } *Rot. Parl.* Nu. XIV. (39).

[3] none }

[4] *Rot. Parl.* inserts this word.

(*a*) This statute, as well as 1 Edw. III., Stat. 2, c. 14 and 4 Edw. III, c. 11, were confirmed by 7 Ric. III, c. 15.

of them to be arrested or attached, nor of none other for them, for the [omitting[1]] of any arrest or attachment to be made by their [body,[2]] or of any person, by them or any of them by force or colour of their office arrested or attached, for fine, [fee,] suit of prison, mainprise, letting to bail, or shewing any ease or favour to any such person so arrested or to be arrested, for their reward or profit, but such as follow; that is to say, for the sheriff xxd. the bailiff which maketh the arrest or attachment, four-pence, and the gaoler, if the prisoner be committed to his ward, four-pence: And that the sheriff, undersheriff, sheriff's clerk, steward or bailiff of franchise, servant [of[4]] bailiff [or[5]] coroner, shall not take [any thing[6]] by colour of his office, by him nor by any other person to his use, of any person for the making of any return or panel, [[7]] and for the copy of any panel, but ivd.: And that the said sheriffs, and all other officers and ministers aforesaid, shall let out of prison all manner of persons by them or any of them [[8]] arrested, or being in their custody, by force of any writ, bill, or warrant in any action personal, or by cause of indictment of trespass, upon reasonable [sureties[9]] of sufficient persons, having sufficient within the counties where such persons be so let to bail or mainprise, to keep their days in such [place[10]] as the said writs, bills, or warrants shall require; such person or persons which be or shall be in their ward by condemnation, execution, capias utlagatum or excommunicatum, surety of the peace, and all such persons which be [or shall be] committed to ward by special commandment of any justice, and vagabonds refusing to serve according to the form of the Statute of Labourers only except. And that no sheriff, nor [any[11]] of the officers or ministers aforesaid, shall take [[12]] or cause to be taken or [make;[13]] any obligation for any cause aforesaid, or by colour of their office, but only to themselves, of any person, nor [by[14]] any person which shall be in their ward by the course of the law, but [by[15]] the name of their office, and upon condition [written,[16]] that the said prisoner shall appear at the day contained in the said writ, bill, or warrant, [and in such places as the said writs, bills or warrants[16]] shall require. And if any of the said sheriffs, or other officers or ministers aforesaid, take any obligation in other form by colour of their offices, that it shall be void; and that he shall take no more for the making of any such

Fees on arrests, attachments, &c.

No fee for returns or panels.

Fee for copy of a panel.

Sheriffs, &c. shall let to bail all persons arrested

On sureties;

Except persons in execution, &c.

How the bond shall be taken, on such bailing;

the condition thereof.

Bonds in other form void.

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[1] forbering
[2] bodies
[4] or
[6] *omitted here.*
[7] any thing
[8] to be
[3] *Rot Parl. nu.* XIV (39) inserts this word
[5] *nor.*
[9] suerte
[10] places
[11] none
[12] or make
[14] for
[15] under
} *Rot. Parl nu.* XIV. (39).
[13] *made*
[16] *Rot Parl.* inserts these words.

Sheriffs shall make deputies in the King's courts.

Penalty on offending against this Act.

Justices of assizes, &c, may inquire of offenders.

Sheriff returning cepi corpus, or reddidit se, shall be chargeable with the bodies.

Exception for the warden of the Fleet, &c.

obligation, warrant, or precept by them to be made, but four pence. And also that every of the said sheriffs shall make yearly a deputy in the King's courts of his Chancery, the King's Bench, the Common Place, and in the Exchequer, of record, before that they shall return any writs, to receive all manner of writs and warrants to be delivered to them; and that all sheriffs, under-sheriffs, clerks, bailiffs, gaolers, coroners, stewards, bailiffs of franchises, or any other officers or ministers, which do contrary to this ordinance [in[1]] any point of the same, shall lose to the party [in this behalf[2]] in-damaged or grieved, his treble damages, and shall forfeit the sum of xl. li at every time that they or any of them do the contrary thereof in any point of the same, whereof the King shall have the one half, to be employed to the use of his house, and in no otherwise, and the party that will sue the other half: And that the justices of assises in their sessions, justices of the one bench and of the other, and justices of peace in their [county,[3]] shall have power to inquire hear and determine, of office without special commission, of and upon all them that do contrary to [these ordinances[4]] in any article or point of the same. And if the said sheriffs return upon any person, cepiecorpus, or reddidit se, that they shall [5]be chargeable to have the bodies of the said persons, at the days of the return of the said writs bills or warrants, in such form as they were before the making of this act. Provided always, that the warden of the King's gaol of the Fleet, and of the King's palace [of[5]] Westminster for the time being, shall not be endamaged nor prejudiced by this [[6]] ordinance in [the[7]] duty of his office. And also that this ordinance shall begin at the feast of Easter, which shall be in the year of our Lord [[8]] MCCCC xlvj.

[Rep. in part as follows—

so much as ordains that no sheriff or under-sheriff shall return any of their officers or servants in any of the cases herein-mentioned, rep., 6 Geo 4. c. 50. s. 62.

so much as relates to sheriffs and other officers and ministers herein-mentioned letting out of prison upon sureties any person in custody upon indictment, rep., 7 Geo. 4. c. 64. s. 32.

so much as relates to the fees to be taken by sheriffs, under-sheriffs, sheriffs' clerks and other officers and ministers of sheriffs, rep., 7 Will. 4. & 1 Vic. c. 55. s. 1.]

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[1] or
[2] therinne
[3] countreis
[4] this ordenaunce
[5] atte
[6] present
[7] his
[8] *Jesus Christ.*

} *Rot. Parl. m.* XIV (39).

27 HENRY VIII. A. D. 1535-36.

Chapter x, ss. 1, 2, & 3.

An Acte concernyng uses & wylles(*a*).

Where by the common lawes of this realme landes tenementes and hereditamentes be not [divisible[1]] by testament, nor ought to be transferrid frome one to a nother but by solemne lyvery and seasen matter of recorde wryting suffycyent made bona fide without covyne or fraude, yet nevertheles dyverse and sundry ymaginacions subtile invencions and practises have bene usid, wherby the heredytamentes of this realme have bene conveyed frome one to an other by fraudulent feoffementes fynes recoveryes and other assurances craftely made to secrete uses intentes and trustes, and also by wylles and testamentes sumtyme made by nude parolx and wordes somtyme by signes and tokens and somtyme by wrytyng, and for the moste parte made by such persones as be visited with sykenes, in theyr extreme agonyes and peynes or at such tyme as they have hadde scantlye eny good memorie or remembrance; at whiche tymes they beyng provokid by gredye covetous persones lyeng in a wayte about them do many tymes dyspose indiscretely and unadvisidly theyr landes and inheritances; by reason wherof and by occasion of which fraudulent feoffementes fynes recovereys and other lyke assurannces to uses confydences and trustes dyvers and many heires have bene unjustlye at sundry tymes disherited, the lordes have lost theyr wardes mariages relyefes hariottes eschetes, aydes pur fayre fitz chyvaler & pur file maryer, and scantlye any persone can be certaynly assurid of any landes by them purchasid nor knowen surelye agayn whome they shal use theyr accions or execucions for theyr rightes titles and duytes; also men maryed have lost theyr tenancies by the courtesie, women theyr dowers, manyfest perjuryes by triall of such secrete willes and uses, have bene comyttid, the Kynges Highnes hathe lost the proffyttes and advauntages of the landes of persones atteyntid, and of the landes craftelye put in feffement to the uses of alyens borne, and also the proffittes of waste for a yere and a daye of landes of felones atteyntid, and the lordes theyr eschetes therof, and many other inconveniences have happened and dayly do encreace amonge the Kynges subjectes, to theyr greate trouble and inquietnes, to the utter subvercion of the auncyent common lawes of this realme; for the extirpyng and extinguyshment of al such subtile practised feffementes fynes recoveryes abuses and errours heretofore usid and accustomyd in this realme, to the subversion of the good and auncyent lawes of the same,

Transfer of lands at common law;

evils resulting from conveyances and devises to uses;

[1] devysible *O.*

(*a*) "The title by lease and release depends on the Statute of Uses, which is a remedial Act, and has always been considered by this Court as applicable to the lands of British subjects in this country," *Doe* v. *Banoharam Tagore*, Morton, 72, per Chambers J. See Act IX of 1842, which extends to India the 4 & 5 Vic., cap. 21.

and to thintent that the Kynges Highnes or any other his subjectes of this realme shall not in any wise hereafter by any meanys or invencious be deceyvid damaged or hurted by reason of such trustes uses or confidences, it may please the Kynges most royall Majestie that it may be enacted by his Highnes by thassent of the lordes spyrituall & temporall and the comons in this present Parlyament assemblyd and by auctorite of the same in manour and fourme foloing that is to sayè; that where any persone or persones stand or be seased or at any tyme hereafter shall happen to be seasid, of and in any honoures castelles manoures landes tenementes rentes servyces revercions remaynders or other hereditamentes, to the use confidence or trust of any other parsone or parsones or of anye bodie polytike, by reason of any bargayne sale feffement fyne recovery covenaunte contracte agrement will or otherwise by anye maner meanes what so ever it be, that in evèry suche case all and every suche parson & parsones & bodyes polytyke that have or hereafter shall have any such use confidence or truste in fee symple fee tayle for terme of lyf or for yeres or otherwyse, or any use confidence or trust in remaynder or reverter, shall from hensforth stond and be seasid demed and adjuged in lawfull season estate and possession of and in the same honours castels manours landes tenementes rentes servyces revercyons remaynders and hereditamentes with theyr appurtenances to all intentes construccions and purposis in the lawe, of and in suche lyke estates as they had or shall have in use trust or confidence of or in the same. And that the estate right title and possession that was in suche parsone or parsones that were or shalbe hereafter seasid of any landes tenementes or hereditamentes, to the use confidence or trust of any such parsone or parsones or of any bodye polytyke, be from hensforth clerelye demed and adjugid to be in hym or them that have or hereafter shall have suche use confydence or trust, after such qualytie maner fourme & condicion as they had before in or to the use confydence or trust that was in them.

persons entitled to the use of lands, shall stand and be seized, and be deemed in lawful seisin and possession, of the lands.

Sec. II. So where divers are seized to the use of any of them:

And be it further enactid by the auctorite aforseid that [were[1]] dyvers and many parsones be or hereafter shall happen to be joyntlye seasid, of and in any landes tenementes rentes revercions remaynders or other hereditamentes, to thuse confidence or trust of any of them that be so joyntlye seasid, that in every suche case that or those parson or parsones which have or hereafter shall have any suche use confidence or trust, in any suche landes tenementes rentes revercions remaynders or hereditamentes, shal from hensforth have and be demed and adjuged to have, onlye to hym or them that have or hereafter shall have such use confidence or trust, such estate possession and season of and in the same landes tenementes rentes revercyons remaynders or other hereditamentes, in lyke nature manor and fourme condicion and course as he

[1] where *O.*

or they hadde before in thuse confidence or trust of the same landes tenementis or hereditamentis: Savyng and reservyng to all and singuler persones and bodyes polytyke theyr heyres and successors, other than those person or personcs which be seasid or hereafter shalbe seasid of any landes tenementis or hereditamentis to any use confidence or trust, all such right title entre enterest possession rentis and action as they or any of theym had or myght have hadde before the makyng of thys Acte. And also savyng to all and singuler those persones and to theyr heyres which be or hereafter shalbe seasid to anye use, al suche former right title entre enterest possession rentis customes servyces and action as they or anye of theym myght have had to hys or theyr owne proper use in or to any manours landes tenementis rentis or heredytamentis wherof they be or hereafter shalbe seasid to any other use, as if thys present Acte had never bene hadde nor made; any thing conteynid in thys Acte to the contrary notwithstonding.

Saving for rights of strangers.

Savings for rights of persons seized to any use.

And where also dyvers persons stond and be seasid of and in any landes tenementis or hereditamentis in fee symple or otherwise, to the use or intent that some other person or personcs shall have and perceyve yerely to them and to his or theyr heyres one annuell rent of x li. or more or lesse out of the same landis and tenementis, and some other person one other annuel rent to hym and hys assignes for terme of lyf or yeres or for some other specyall tyme, according to suche entent and use as hath bene heretofore declarid lymyted and made therof; be it therfore enacted by the auctorite aforseid that in every suche case the same persones theyr heyres and assignes, that have suche use and interest to have and perceyve any such annuell rentis out of anye landis tenementis or hereditamentis, that they and every of them theyr heyres and assignes be adjugid and demyd to be in possession and season of the same rent, of and in such lyke estate as they had in the title interest or use of the said rent or proffytt, and as if a suffycyent graunt or other laufull conveyance had be made & executed to them by suche as were or shalbe seased to the use or intent of anye suche rent to be hadde, made or paide accordyng to the very trust and intent therof. And that all and every suche persone [or [1]] personcs as have or hereafter shall have any title use and interest in or to anye such rent or proffytte, shall laufully distrayne for none payment of the seid rent and in theyr owne names make advowryes or by theyr baylyffes or servauntes make conysaunces and justyfycacions, and have al other suytes, entres and remedies for such rentis, as if the same rentis hadde be actuallye and really graunted to them with suffycyent clauses of dystresse reentre or otherwyse, according to such condicions peynes or other thynges lymyted and apoyntid upon the trust and entent for payment or suertie of such rente.

Sec. III In case of uses for payment of any rents, the parties intitled to the rents shall be deemed in possession and seizin thereof

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[1] and *O.*

3853

28 HENRY VIII. A. D. 1536.

Chapter XV.

An Acte for punysshement of Pyrotes and Robbers of the See (a).

Deficiency of the Admiralty jurisdiction, in trial of offences according to the civil law.

Where traitours pirotes theves robbers murtherers and confederatours uppon the see, many tymes escape unpunysshed because the triall of their offences hath heretofore ben ordered judged and determyned before the admyrall or his lyeutenante or commissary, after the course of the civile lawes, the nature wherof is that before any judgement of death canne be yeven ayenst the offendours, either they must playnly confesse their offences (which they will never doo without torture or paynes) or els their offences be so playnly and directly proved by witnes indifferente, suche as sawe their offences commytted, which cannot be gotten but by chaunce at fewe tymes by cause such offendours commytt their offences uppon the see, and at many tymes murder and kill suche persons being in the shipp or bote where they commytt their offences which shulde wytnes ayenst them in that behalfe, and also suche as shulde bere witnes be commonly maryners and shipmen, which by cause of their often viages and passages in the sees departe without long tarying and protraction of tyme to the great costs and charges as well of the Kynges Highnes as suche as wolde pursue such offendours: For reformacion wherof be it enacted by the auctoritie of this present Parliament, that all treasons felonyes robberies murders and confederacies, herafter to be commytted in or uppon the see, or in any other haven ryvere creke or place where the admyrall or admyralls have or pretende to have power auctoritie or jurisdiction, shall be enquired tried harde determyned and judged in such shires and places in the realme as shall be lymytted by the Kynges commission or commissions to be directed for the same, in like fourme and condicion as if any such offence or offences hadd ben commytted or done in or uppon the lande, and such commissions shall be hadd under the Kinges greate seale directed to the admyrall or admyrals, or to his or their lieutenaunt deputie [or[1]] deputies, and to iij or iiij such other substanciall persons as shall be named or appoynted by the lorde chauncellour of Englande for the tyme being from tyme to tyme and as often as nede shall require, to here and determyne suche offences after the common course of the lawes of this lande, used for tresons felonies robberies murders and confederacies of the same done and commytted upon the lande within this realme.

All offences committed at sea, &c., shall be tried according to the common law, under the King's commission, to be directed to the admiral and others within the realm.

[a So much of this and other recited Acts as relates to the punishment of the crime of piracy, or of any offence by any of the said Acts declared to be piracy, or of accessaries thereto respectively, rep., 7 Will. 4 and 1 Vict., c. 88, s 1.]

[1] and O.

II. Offenders shall be proceeded against, tried, convicted, and punished, before such commissioners, in any shire of the realm, as for offences committed upon land.

And be it enacted by the auctoritie aforsaid, that such personnes to whom such commission or commissions shall be directed, or iiij of them at the leaste, shall have full power and auctoritie to enquire of suche offences and of every of them by the othes of twelve good and laufull inhabitaunts, in the shire lymytted in their commission, in suche like manere and fourme as if suche offences hadd ben commytted uppon the lande, within the same shire; and that every inditement founde and presented before such commissioners, of any treasons felonies robberies murders manslaughters or such other offences commytted or done in or uppon the sees, or in or uppon any other haven river or creake, shall be good and effectuall in the lawe; and if eny person or persons happen to be indited for eny such offence done or hereafter to be done upon the sees, or in any other places above lymytted, that then suche order processe judgement and execucion shall be used hadd done and made, to and agaynst every such person and persons so being indited, as agaynst traytours felons and murderers for treason felony robbery murder or other such offences done uppon the lande, as by the lawes of the realme is accustomed; and that the triall of such offence or offences, if it be denyed by the offendour or offendours, shall be had by xij laufull men inhabited in the shere lymytted within such commission which shall be directed as is aforsaid, and noo chalenge or chalenges to be hadd for the hundred; and such as shall be convycte of any suche offence or offences, by verdite confession or processe by auctoritie of any such commission, shall have and suffer such paynes of death losses of landes goodes and cattalles, as if they hadd ben atteynted and convycted of any treasons felonies robberies or other the said offences doon uppon the landes.

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IV. Proviso for taking provisions or ship's stores in cases of necessity; paying for them.

Provided alway that this Acte extende not to be prejudiciall or hurtfull to any person or persons, for takyng any vitaile gables ropes ancars or sayles which any such person or persons, (compelled by necessitie) taketh of or in any shipp which may conveniently spare the same, so that the same person or persons paye out of hande, for the same vitaill gables ropes ancars or sailes, money or money worth to the valew of the thing so taken, or to delyvere for the same a sufficient bille obligatori to be payed in fourme folowyng; that is to say, if the takyng of the same thinges be on this side the Straytes of Marroke then to be paide within iiij monethes, and if it be beyond the said Straites of Marroke then to be paide within xij monethes, next ensuying the makyng of such billes; and that the makers of suche billes well and truly pay the same dett at the day to be lymytted within the said billes.

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31 HENRY VIII. A. D. 1539.

Chapter I.

An Acte for joynt Tenantis and Tenantis in comon.

Inconveniences resulting from joint-tenantcy, &c. undivided.

Forasmuche as by the comen lawes of this realme, diverse of the Kingis subjectis being seised of mannors landis tenementes and hereditamentes as joynt tenantes or as tenantes in comen with other, of any estate of enheritaunce, in their owne rightis or in the right of their wyffes, by purchase discent or otherwise, and every of them so being joynt tenantes or tenantes in comen hathe like righte title interest and possession in the same mannors landes tenementes and hereditamentis for their partis or porcions joyntlye or in comen undevydedlye together withe other, and none of them by the lawe doeth or maye knowe their severall partes or porcions in the same, or that that ys his or theirs by hit selfe undevyded, and cannot by the lawes of this realme otherwise occupye or take the profytt of the same, or make any severans division or particion thereof, without either of their mutuall consentes and assentis; by reason whereof diverse and many of them, beinge so joyntly and undevidedly seised of the saide mannors landis tenementis & hereditamentis, often tymes of their perverse covetous and malicious myndes and willes, ayens all right justice equitie and good conscience by strenghe and power, hath not onlye cutt and fallen downe all the woodes and trees growinge uppon the same, but also hathe extirped subverted pulled downe and distroyed all the houses [edificyons[1]] and buyldyngis meadowes pastures commens and the hoole commodities of the same, and hath taken and converted them to their owne uses and behooffis, to the open wronge & disherison and ayens the myndes and willes of other holdinge the same mannors landes tenementis and hereditamentis joyntlye or in commen withe them, and they have bene alwaies without assured remedy for the same; be it therefore enacted by the Kinge our most drede soveraigne lorde and by thassent of his lordes spirituall and temporall and by the commons in this present Parliament assembled, that all joynttenantis and tenantes in commen, that nowe be or hereafter shalbe of enny estate or estates of enheritaunce in their owne rightis or in the righte of their wyffes, of any manners landes tenementis or hereditamentes within this realme of Englande Wales or the mersches of the same, shall and maye be coacted and compelled by vertue of this present Acte, to make particion betwene them of all suche mannors landes tenementes and hereditamentis as they nowe holde or hereafter shall holde as joynttenantis or tenantes in commen, by writt de [participione[2]] facienda, in that case to be devised in the Kinge our soveraigne lordes Courte of Chauncerie, in like manner and forme as coperceners by the comen lawes of this realme have byne and are compellable to doe, and the same writt to be pursued at the commen lawe

Joint-tenants and tenants in common shall be compellable to make partition, in like manner as coparceners.

[1] So also in the original Act. *Printed copies* read 'edifices.' [2] Participacione *O.*

PROVIDED alwaye and be it enacted, that everye of the saide joynttenantis or tenantes in commen and their heires after suche particion made, shall and may have ayde of the other, or of their heires, to thentent to deraigne the warrantye paramounte and to recover for the rate as is used betwene coperceners after particion made by the order of the comen lawe; any thinge in this Acte conteyned to the contrarie notwithstandinge.

Sec. II. After partition each shall have aid of the other.

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32 HENRY VIII. A. D. 1540.

CHAPTER IX.

Agenst maintenaunce and embracery byeng of titles, &c.

THE King our souveraine lorde calling to his moste blissed remembraunce that there is nothing within this realme that concerveth his loving subjectis in more quietnes rest peace and good concorde than the due and juste ministration of his lawes and the true and indifferent triall of suche titles and issues as ben to be tried according to the lawes of this realme, whiche his moste roiall Majestie perceyveth to be gretely hindered and lettid by maynetenance embracerie champartie subornacion of witnesses sinistre labour buying of titles and pretensed rightes of personnes not being in possession, wheruppon greate perjury hathe ensued and muche unquietnes oppression vexacion troubles wrongis and dishenheritaunce hath folowed amongest his moste loving subjectis, to the greate displeasure of Allmighty God the discontentacion of his Majestie and to the greate hinderaunce and lett of justice within this his realme; for avoyding of all which misdemeanours and bying of titles and pretensed [. [1]] and tothintent that justice may be the more fully and indifferently ministred and the trueth in causes of contencion plainely tryed bitwene his subjectis of this realme: Be it enacted by our said souverain lorde with thassent of the lordes spirituall and temporall and the commons in this present Parlament assembled and by auctoritie of the same, that from hensfurth all statutes heretofore made concerning maintenance champarty and embracery, or any of them nowe standing and being in their full streignth and force, shalbe put in due execution according to the tenures and effectis of the same statutis.

Sec. I. For prevention of maintenance and embracery;

all statutes against those offences shall be put in execution.

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CHAPTER XXXII.

Jointenauntis for lif or yeres.

FORASMUCHE as in the Parlament begon at Westminster the xxviijth day of Aprill and there contynued till the xxviijth day of June the xxxj yere of

St. 31 H. VIII. C. 1. for partition by joint-tenants, &c.

[1] rights *O.*

extended to persons having particular estates for life or years.

the Kinges mooste noble and victoriouse reigne that nowe is, it was amongest other thinges [there [1]] enacted and established that all joyncte tenantis and tenantis in common that then were or heraftre shulde be of anny estate or estatis of inheritaunce, in their owne rightis or in the right of their wifes, of anny mannours landis tenementis or hereditamentis within this realme of England Wales or marches of the same, shall and may be coacted and compellid by vertue of the said Acte to make partition betwene them of all suche mannours landis tenementis and hereditamentis as they [than hilde[2]] or herafter shulde holde as joynte tenauntis or tenauntis in comen; as more [3] at large apperith by the said estatute: And forasmuche as the said estatute dothe not extende to joyncte tenauntis or tenauntis in common for terme of life or yeris, nother to joyncte tenauntis or tenauntis in common where one or some of them have but a particulier estate for terme of life or yeris and thother have estate or estatis of inheritaunce of and in any mannours landis tenementis and hereditamentis; be it therefore enacted by the Kinge our souveraine lorde and by thassent of his lordis spirituall and temporall and the comons in this present Parlament assembled and by thauctoritie of the same, that all joynct tenauntis and tenauntis in commen and every of them, whiche nowe hold or herafter shal holde joynctly or in common for terme of life yere or yeres, or joyncte tenauntis or tenauntis in common where one or some of them have or shalhave estate or estatis for terme of life or yeris with thother that have or shalhave estate or estatis of inheritaunce or frecholde, in any manours landes tenementis or hereditamentis, shall and may be compellable from hensfurth, by writte of partition to be pursued out of the Kinges Courtis of Chauncery uppon his or their cace or caces, to make severaunce and partition of all suche manours landis tenementis and hereditamentis whiche they holde joynctely or in common for terme of lyf or lifes yere or yeris, where one or somme of them holde joynctly or in common for terme of life or yeris with other, or that have an estate or estatis of inheritaunce or frecholde.

II. Such partition shall not prejudice others, not parties.

PROVIDED alway and be it enacted that no suche partition nor severaunce hereafter to be made by force of this Acte be nor shalbe prejudiciall or hurtefull to anny personne or personnes their heirs or successours other than suche whiche be parties unto the said partition their executors or assigneis.

CHAPTER XXXIV.

Graunties of Reversions.

Covenants in leases, &c., not available, by common law

WHERE bifore this tyme divers, aswell temporall as ecclesiasticall and religiouse personnes, have made sundry leases demyses and grauntis to divers

[1] *O.* omits. [2] Then holde *O.* [3] Playnly *O*

other persones of sundry manours lordshipps fermes meases landis tenementis medowes pastures or other hereditamentis for terme of life or lifes or for terme of yeres, by writing undre their seale or sealis conteyning certain conditions covenantis and agreamentis to be perfourmed as well on the parte and bihalfe of the said [leases and grauntis [1]] their executours and assigneis, as on the behalf of the said lessours and grantours their heirs and successours; and forasmuche as by the common lawe of this realme no straunger to any covenaunt action or condition shall take any advauntage or benefite of the same by any meanes or wayes in the lawe, but onely suche as be parties or prives therunto, by the reason wherof as well all [grauntis [2]] of reversions as also all grauntees and [patentis [3]] of the King our souveraine lorde of sundrie manours lordeships graunges fermes meases landis tenementis medowes pastures or other hereditamentis, late bilonging to monasteries and other religiouse and ecclesiasticall houses dissolved suppressid renouncid relinquished forfaicted geven up or by other meanes comme to thandis and possession of the Kings Majesty syns the fourth day of February the xxvijth yere of his mooste noble reigne, be excluded to have any entree or action against the said [lesses [4]] and grauntees their executours or assigneis whiche the lessours bifore that tyme mought by the lawe have had against the same [lesses [4]] for the breache of any condition covenaunt or agreament comprisid in the indentures of their said lesses dimises and grauntes: Be it therefore enacted by the Kinge our souveraine lorde the lordes spirituall and temporall and the commons in this present Parlament assembled and by auctoritie of the same, that aswell all and every personne & persones and bodies politike their heires successours and assigneis, whiche have or shalhave any gifte or graunte of our said souveraine lorde by his letres patentis af anny lordeships mannours landis tenementis rentis personnages tithes portions or any other hereditaments, or of anny reversion or reversions of the same, whiche did bilonge and appertaine to any of the said monasteries and other religiouse and ecclesiasticall houses dissolved suppressid relinquished forfaicted or by any other meanes comme to the Kinges handes syns the said iiijth day of February the xxvij yere of his moost noble reigne, or whiche at any tyme heretofore did bilonge or appertayne to any other persone or personnes and aftre came to thandis of our said souveraine lorde, as also all other personnes being grauntees or assigneis to or by our said souveraine lorde the King, or to or by any other personne or personnes than the Kings Highnes, and theires executours successours and assignes of everie of them, shall and may have and enjoye like advauntage against the [lesses [5]] their executours administratours and assigneis, by entree for none payment of the rent or for doing of wast or other forfaicture, and

except to parties or privies thereto;

grantees of the lands of religious houses dissolved, and all grantees of reversions in lands, &c. shall have advantage of all covenants against the lessees of such lands.

[1] lessees & graunties *O.*
[2] graunties *O.*
[3] patentyes *O.*
[4] lessees
[5] lessees *O.*

also shall and may have and enjoye all and every suche like and the same advauntage benefite and remedyes by action onely for not perfourmyng of other conditions covenantis or agreementis conteynid and expressid in the endentures of their said leases dymyses or grauntes, against all and every the said [lesses[1]] and fermours and graunties their executours administratours and assignis, as the said lessours or grantours them selfis or their heires or successours ought shuld or might have had and enjoyed at any tyme or tymes, in like maner and fourme as if the reversion of suche landis tenementis or hereditamentis had not comme to thandis of our said souveraine lorde, or as our said souveraine lorde his heires and successours shuld or might have had and enjoyed in certaine cases by vertue of Thacte made at the first cession of this present Parlament if no suche grante by lętres patentes had ben made by his Highnes.

31 H VIII. c. 13.

II. Lessees may have action of covenant &c, against such grantees.

Moreover be it enacted by auctoritie aforesaid that all fermours lessees and grantees of lordeshipps manours landis tenementis rentis personnages tithes portions or anny other hereditamentis for terme of yeres life or lyfes their executours administratours and assigneis, shall and may have like action avauntage and remedy againste all and everie personne and personnes and bodies politike their heires successours and assigneis, whiche have or shalhave any gifte or graunte of our souveraine lorde the Kinge or of anny other personne or personnes of the reversion of the same manours landis tenementis and other hereditamentis so letten or any percell therof, for any condition covenaunt or agreament conteynid or expressid in the indenturis of their leasse and leasses as the same [leases[1]] or anny of them might and shulde have had against their said leassours and grauntours their heires or successours; all benefites and advauntages of recoveres by reason of anny waraunty in deede or in lawe by voucher or otherwise onely excepted.

III. Commencement of the provisions of this Act.

Provided allwaies that this Acte nor anny thinge or thinges therin conteynid shall extend to hindre or charge any persone or personnes for the breche of any covenaunt or condition comprised in any suche writing as is aforesaid, but for suche covenauntis and conditions as shall be broken or not perfourmed after the firste day of Septembre next comming and not bifore; any thinge bifore in this Acte conteynid to the contrarie therof notwithstanding.

Chapter XXXVII. A. D. 1540.

For recovering of Arreragis by Executours and Administratours.

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Sec. IV. Persons entitled to rents,

And likewise it is further enacted by thauctoritie aforesaid that yf any persone or persons whiche nowe have or herafter shalhave any rentis or fee fermes

[1] lessees *O*

for terme of life or lyves of anny other personne or personnes, and the said rent or fee ferme nowe be or heraftre shalbe due behinde and unpaid in the life of suche personne or personnes for whose life or lifes the estate of the said rent or fee ferme did depend or contynue, and aftre the said personne or persones doth dye [than[1]] he unto whome the said rent or fee ferme was due in fourme aforesaid, his executours and administratours, shall and may have an action of dett against the tenant in demeane that ought to have paid the same whan it first was due his executours and administratours, and also distrayne for the same arrerages uppon suche landis and tenementis out of the whiche the said rentis or fee fermes were yssuyng and payeable, in suche like maner and fourme as he ought or might have doon if suche personne or personnes, by whose deathe the aforesaid estate in the said rentis and fee fermes was determined and expired, had ben in full lif and not deade, and the avowry for the taking of the same distres to be made in maner and fourme aforesaid.

during the life of another, may recover the same after death of *cestui que vie.*

Chapter XXXVIII.

Concerning precontracts and degrees of Consanguinite [2].

Whereas heretofore the usurped power of the bishop of Rome hathe alwayes entangled and troubled the mere jurisdiction and legal power of this realme of England, and also unquietid muche the subjectis of the same by his usurped power in them, as by making that unlaufull whiche by Goddis wourde is laufull bothe in mariages and other thinges as heraftre shall appere at more length; and till nowe of late in our souveraine lordes tyme, whiche is otherwise by larning tawght than his predecessours in tymes past of longe tyme have ben, hath so contynued the same, wherof yet some sparkis be lefte whiche heraftre might kindle a greater fyer and so remayning his power not to seme utterly extincte, therefore it is thought mooste convenient to the Kinges Highnes his lordes spirituall and temporall with the comons of his realme assembled in this presente Parlament that twoo thinges specially for this tyme be with diligence provided for, whereby many inconveniences hath ensued and many moo els mought ensue and followe: As where heretofore divers and many personnes after longe contynuaunces togither in matrimony, without any allegation of either of the parties or anny other at their mariage whie the same matrimony should not be good juste and laufull, and after the same matrimony solemnised and consummate by carnall knowlege, and also some tyme fruite of children ensued of the same mariage, have nevertheless by an unjuste lawe of the bishop of Rome, whiche is that uppon pretence of a former

Usurped power of the see of Rome heretofore exercised;

by dissolution of marriages on pretence of precontract;

[1] then *O.*

[2] As concerning precontracts, rep., 2 & 3 Edw. 6, c. 23, s. 1 (s. 2, Ruff.)

contracte made and not consummate by carnall copulation, for profe wherof twoo witnes by that lawe were onely required, ben diverced and separate contrarie to Goddis lawe, and so the true matrimony bothe solemnised in the face of the Church and consummate with bodily knowlege and confirmed also with the fruite of children had betwene them clerely frustrate and dissolved: Further also by reason of other prohibitions than Goddis lawe admitteth, for their lucre by that courte invented, the dispensation wherof they alwaies reservid to them selfis, as in kynnerede or affinitie betwene cousyn germaynes and so to fourth and fourth degree carnall knowlege of anny of the same kynne or affinitie bifore in suche outwarde degrees which elys were laufull and be not prohibited by Goddis lawe, and all bicause they wolde gett monney by it and kepe a reputation to their usurped jurisdiction; whereby not onely muche discorde betwene laufull maried personnes hath contrarie to Goddis ordenaunce arrisen, muche debate and sute at the lawe with the wrongefull vexation and greate damage of the innocent partie hath ben procured, and many juste mariages brought in doubte and daunger of undoyng and also many tymes undoone and laufull heires disherited, wherof there had never els but for his vayne glorious usurpation ben moved any suche question, syns fredomme in them was geven us by Goddis lawe which ought to be most sure and certein, but that notwithstanding mariages have been brought into suche an uncertainty thereby that no mariage coulde be so surely knytt and bounden but it shulde lye in either of the parties power and arbitre, casting away the feare of God, by meanes and compasses to prove a precontracte a kynnerede an alliance or a carnall knowlege to defeate the same, and so undre the pretense of thise allegations afore rehersid to lyve all the daies of their lyves in detestable adultery to thutter destruction of their owne soules and the provocations of the terrible wrath of God uppon the places where suche abominations were suffred and used: Be it therefore enacted by the King our souveraine lorde the lordes spirituall and temporall and the commons in this present Parlament assembled and by auctoritie of the same, that from the firste day of the monneth of July next [ensueyng[1]] in the yere of our Lorde God a thousande fyve hundred and forty, all and every suche mariages, as within this churche of England shalbe contracted betwene laufull personnes, as by this Acte wee declare all personnes to be laufull that be not prohibited by Goddis lawe to mary, suche mariages being contracte and solemnised in the face of the churche and consummate with bodily knowledge or frute of childerne or childe being had therin betwene the parties so maried, shalbe by auctorite of this present Parlament aforesaid demed judged and taken to be lauful good juste and indissoluble,

by dispensations for marriage between cousins, &c.

Evils resulting therefrom.

Marriages, contracted by persons not prohibited by God's law, solemnized and consummated, shall not be dissolved for any pre-contract not consummated.

[1] coming *O*

notwithstanding any precontracte or precontractis of matrimony, not consummate with bodily knowlege, whiche either of the personnes so maried or both shalhave made with anny other personne or personnes, bifore the tyme of contracting that mariage which is solemnised and consummate or whereof suche frute is ensued or maye ensue as afore; and notwithstanding any dispensation prescription lawe or other thinge graunted or confirmed by Acte or otherwise: And that no reservation or prohibition, Goddis lawe except, shall trouble or impeche anny mariage without the Leviticall degrees; and that no person of what estate degree or condition soever he or she be shall aftre the [1] first day of the [said[2]] monneth of July aforesaid be admitted in any of the spirituall courtis within this the Kinges realme or any his graces other landis and dominions to any proces plea or allegation contrarie to this aforesaid Acte.

No marriage without the Levitical degrees shall be impeached.

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2 & 3 EDWARD VI. A.D. 1548.

Chapter XXIII.

An Acte for the repeale of a Statute towchinge precontractis.

Whereas in the xxxijth yere of the raigne of the late Kinge of famous memorie Kinge Henrie Theight, because that many inconveniencis had chaunced in this realme by breakinge and dissolvinge of good and laufull marriagis, yea whereupon also sometyme yssue and children had followed, under the colour and pretence of a former contracte made withe an other, the whiche contracte diverse tymes was but verie slenderlie proved, and often but surmysed by the malice of the partie who disired to be dissolved from the marriage whiche [3] lyked not and to be copuled withe an other, there was an Acte made that all and everie suche marriages as within the Churche of Englonde shoulde be contracted and solempnized in the face of the Churche and consummate withe bodilye knowledge or fruyte of children or childe beinge had betwene the parties so married, shoulde be by the auctoritye of the saide Parliament demed judged and taken to be laufull good juste and indissoluble, notwithstandinge any precontracte or precontractis of matrymonye, not consummate withe bodylie knowledge, whiche either of the persons so married or bothe had made withe any other person or persons before the time of contractinge that marriage whiche ys solempnized or consummated or whereof suche fruite ys ensued or maye ensue, as by the same Acte more playnly maye appeare: Sithe the tyme of the whiche Acte, althoughe the same was godly ment, the unrulynes of men hathe ungodlye abused the same and diverse inconveniences intollerable in manner to Christian eares and eyes followed thereupon, women and men breaking their owne

Recital of Stat. 32 H. VIII. c. 38. against the dissolution of marriages consummated, under pretext of pre-contract not consummated;

abuse of the said Act;

[1] said *O.* [2] *O.* omits. [3] they *O.*

promyses and faythes made by the one unto the other, so sett upon sensualitie and pleasure, that yf after the contracte of matrymonye they might have whom they [illegible]ed and desyred they coulde be contented by lightnes of their natu[illegible] that they had done afore, and not afearde in manner ever[illegible]urche doore and marriage feaste, the man to take an oth[illegible]e espowse to take an other husbande, more for bodylie lusts an[illegible]ge then for suertye of faythe and truethe, or havinge God i[illegible]nbrance contempnynge manye tymes also the comaund-[illegible]siasticall judge forbyddinge the parties havinge made the

recited Act repealed as to pre-contracts, on which the spiritual judge may decide, &c.

[illegible]pte or doe any thing in prejudyce of the same; be it therefore en-[illegible]ges Highnes the lordes spirituall and temporall and the commons [illegible]arliament assembled, that as concerninge precontractis the saide [illegible] shall from the fyrste daye of Maie next commynge ceasse be [illegible] noe force or effecte, and be reduced to the state and ordre of [illegible]clisiasticall lawes of this realme, whiche ymmediatlye before the [illegible]e said Estatute in this case were used in this realme; so that [illegible]de firste daye of Maie, when any cause or contracte of marriage is [illegible]o have bene made, it shalbe laufull to the Kinges ecclisiasticall judge [illegible]ace to heare and examyne the saide cause, and having the saide [illegible] sufficiently and laufully proved before him, to give sentence for ma-[illegible]e commanding solempnizacion cohabitacion consumacion and tractacion [illegible]neth man and wyef to have; withe inflictinge all suche paynes upon [illegible]sobedientis and disturbers thereof, as in tymes past before the saide sta[illegible]te, the Kings ecclisiasticall judge by the Kings ecclisiasticall lawes ought and might have done yf the saide statute had never bene made; any clause article or sentence in the said statute to the contrarie in any wise notwithstandinge.

II. Proviso for marriages had before this Act.

PROVIDED alwayes and be it enacted, that this Acte doe not extende to disanull dissolve or breake any marriage, that hathe or shalbe solempnizated and consummated before the saide firste daie of Maie next ensuynge, by title or color of any precontracte; but that they be and be demed of lyke force and effecte to all intentis construccions and purposes as yf this Acte had never bene had ne made; any thinge in this presente Acte notwithstandinge.

III. Recited Act 32 H. VIII. c. 38. confirmed in all other respects.

PROVIDED also that this Acte doe not extende to make good any of the other causes to the dissolucion or disanullinge of matrimonye whiche be in the saide Acte spoken of and disanulled, but that in all other causes and other thinges there mencioned, the saide former Acte of the xxxijth yere of the late Kinge of famous memorie doe stande and remayne in his full strenghe and power; any thinge in this Acte notwithstandinge.

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1 MARY, St. 2. A. D. 1553.

Chapter VIII.

An Acte that Shiriffes shall not be Justices of Peace during that Office.

Where in one Acte of Parliament, intituled, An Acte for the continuance of Actions after the deathe of any King, made in the first yere of our late sovereigne lorde King Edwarde the syxthe, amongest other things it is ordeined and enacted, that albeit any persone or persons being justice of assise justice of gaole delyverye or justice of peace within any of the Kings dominions, or being in any other of the Kings commissions whatsoever, shall fortune to be made duke archebyshoppe marques erle viscounte baron bishoppe knight justice of thone benche or of the other, or sargeaunte at the lawe or sheriff, yet that notwithstanding, he and they shoulde remayne justice and commissioner, and have full power and aucthorite texecute the same, in like maner and fourme as he or they might or ought to have doone before the same; as in the saide Acte more playnly appearethe: Sythens the making of the whiche Acte divers persons being in the commission of the peace in one countie have beene made sheriffes of the same countie, and have exercised either of the sayd offices whiche semethe not to bee convenient: Wherfore be it enacted by thaucthorite of this presente Parliament that no maner of person or persons, having using or exercising the office of the sheriffe of any cowntye or counties, shall use or exercise the office of the justice of the peace by force of any commission or otherwise, in any countie or counties where he or they shalbe sheriffe, during the time onely that he or they shall use or exercise the sayd office [or [1]] sheriffwike; any thing in the said former Acte to the contrarie in any wise notwithstanding: And that all and every acte and actes to be doon by any suche sheriff or sheriffes by aucthorite of any commission of the peace during the time abovesaid, shall be voide and of none effecte; the said former Acte notwithstanding.

Recital of Statute 1 E. VI, c. § 4, as to justices, &c. made sheriffs, &c.

No sheriff shall act as justice of peace during his shrievalty.

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1 & 2 PHILIP & MARY. A. D. 1554 & 1554-5.

Chapter XII.

An Act touching thimpounding of Distresses.

For thavoiding of grevous vexations exaccions troubles and disorder in taking of distresses and impoundyng of cattayle: Be it enacted by thaucthorite of this presente Parliament, that from and after the first daye of Aprill next comming, no distres of cattell shall bee dryven out of the hundrede rape wapentake or lathe wher suche [distresses[2]] ys or shalbe taken, excepte it bee

Cattle distrained shall not be driven out of the hundred, except to an open pound, &c.

[1] of *O.*

[2] dyatresse *O.*

No distress shall be impounded in several places.

to a pownde overte within the said shyre, not above three myles distante from the place where the said distresse ys taken; and that no cattell or other gooddes, distreigned or taken by way of distresse for any maner of cause at one tyme, shalbe impounded in severall places, wherby the owner or owners of suche distres shalbe constreyned to sue severall replevis for the delyverye of the said distresse so taken at one tyme; upon payne every persone offending contrarye to this Acte shall forfaite to the partye greved for every suche offence, one hundrethe shillinges and treble damages.

II. Fee on impounding 4*d.* only.

And further be it enacted by thauthoritie aforesaid, that after the said first daye of Aprill, no person or persons shall take for keping impownde impownding or pondage of any maner of distres, above the somme of iiij d. for any one hole distres that shalbe so impounded, and where les hathe bene used, ther to take les, upon the payne of fyve powndes to be payd to the partie greved, over and besides suche monye as he shall take above the some of iiij d. any usage or prescripcion to the contrary in any wise notwithestanding.

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13 ELIZABETH. A. D. 1571.

Chapter V.

An Acte agaynst fraudulent Deedes Gyftes Alienations, &c. (*a*)

Evils of feigned conveyances to defraud creditors;

For the avoyding and abolysshing of faigned covenous and fraudulent feoffmentes gyftes grauntes alienations conveyaunces bondes suites judgementes and executions aswell of landes and tenementes as of goodes and catals, more commonly used and practysed in these dayes, then hathe ben seene or hard of heretofore; which feoffementis gyftes grauntes alienations conveyaunces bondes suites judgementes and executions have ben and are devysed & contryved of malyce fraude covyne collusion or guyle, to thend purpose and intent to delaye hynder or defraude creditors and others of theyr juste and lawfull actions suites debtes accomptes damages penalties forfaitures heriotts mortuaries and releefes, not onely to the let or hindraunce of the due course and

(*a*) "In Morton's Cal. Rep. 358 [*Johnston* v. *Morris*], there is a *semble* that the statute (which is *in pari materia* [with 27 Eliz., c. IV.]) 13 Eliz., c. V., appears to be considered as extending to India; and in a case arising entirely between British subjects, other than Hindús or Muhammadans, I am disposed to think that in accordance with the reasoning in *Freeman* v. *Fairlie* (1 Moo. I A. 305) and *The Mayor of Lyons* v. *The E. I. Co.*, ib. p. 175, the Statute 27 Eliz. ought also to be so considered," *Azim-un-Nissa Begum* v. *Dale*, (6 Mad. H. C. Rep. 455, 474, per Bittleston, J.). See also *Agra Bank* v. *Cochrane*, 3 Tayl. & Bell, 63: *Tarrucknath Paulit* v. *Gladstone*, 1 Hyde 178. "The statute [13 Eliz c. 5] itself is said to be merely in affirmance of the common law; it has always been treated by this [the Calcutta High] Court as applying to transactions between Natives," *Shamkissore Shaw* v. *Cowie*, (2 Ind. Jurist, O. S. 7, 10, per Norman J.,) who also observes that it is not a law regulating contracts or dealings [21 Geo. III c. 70, s. 17], but for the suppression of frauds upon creditors.

execution of lawe and justyce, but also to the overthrowe of all true and playne dealyng barganynge and chevysaunce betwene man and man, without the which no common welth or civile societie can be mayntayned or contynued: Bee yt therefore declared ordeyned and enacted by thaucthoritie of this present Parliament, that all and every feoffement gyfte graunte alienation bargayne and conveyaunce of landes tenementis hereditamentis goodes and catalls or of any of them, or of any lease rent common or other profyte or charge oute of the same landes tenementis hereditamentis goods and catals or any of them, by wryting or otherwyse, and all and every bonde suite judgement and execution at any tyme, had or made sithens the begyninge of the Queenes Majesties raigne that nowe is or at any tyme hereafter to be had or made, to or for any intent or purpose before declared and expressed, shalbe from henceforth deemed and taken, onely as againste that person or persons, his or theyre heyres successors executors administrators and assignes and every of them, whose actions suites debtes accomptes damages penalties forfaituris heriottis mortuaries and releyfes, by such guylefull covenous or fraudulent devyses and practyses as is aforesaid, are shall or mought be in any wyse dysturbed hyndred delayed or defrauded, to be clearely and utterly voyde frustrate and of none effecte; any pretence color fayned consideration expressing of use or any other matter or thyng to the contrary notwithstanding.

such conveyances declared void as against the creditors.

AND be yt further enacted by thaucthoriti aforesaid, that all and every the parties to such faygned covenous or fraudulent feoffement gyfte graunte alienation bargayne conveyaunce bondes suites judgementes executions and other thynges before expressed, or beinge privy and knowynge of the same or any of them, which at any tyme after the tenthe daye of June next commyng shall wittingly and willingly put in ure avowe mayntaine justefie or defend the same or any of them, as true simple and done had or made bona fide and upon good consyderation, or shall alien or assigne any the landes tenementes goodes leases or other things before mentioned, to hym or them conveyed as is aforesaid, or anye parte thereof, shall incurre the penaltie and forfayture of one yeres value of the said landes tenementes & heredytamentes leases rentes comons or other profytes of or oute of the same, and the whole value of the said goodes and cattalls, and allso so muche monye as are or shalbe conteyned in any suche covenous and fayned bonde; the one moitie whereof to be to the Queenes Majestie, her heyres and successors, and thother moitye to the partye or parties greeved by suche fayned and fraudulent feoffement gyfte graunte alyenation bargayne conveyaunce bondes suites judgementes executions leases rentes communes profytes chargis and other thynges aforesaide; to be recovered in any of the Queenes courtes of record by action of debt byll playnt or information, wherein none essoyne protection

II. All parties to such fraudulent conveyances, putting the same in effect, shall forfeit one year's value of land, and the whole value of goods so conveyed,

half to the Crown, and half to the party grieved.

or wager of lawe shalbe admitted for the defendaunt or defendauntes; and also beinge thereof lawfully convycted, shall suffer imprysonment for one halfe yere withoute baile or maynepryse.

III. Proviso for common recoveries by tenants in tail, &c.

PROVYDED alwayes and be it further enacted by thaucthoritie aforesaid, that whereas sundry commen recoveris of landes tenementes and heredytamentes have heretofore ben had and hereafter maye be had agaynst tenaunt in tayle or other tenaunte of the frehold, the revertion or remaynder or the right of revertion or remaynder then being in any other person or persons, that every such comen recoverye heretofore had and hereafter to be had of any landes tenementis or heredytamentis shall, as touchinge suche person and persons which then had any remaynder or revertion or right of remaynder or revertion, and agaynste the heyres of everye of them, stande remayne and be of such lyke force and effect, and of none other, as the same should have ben yf this Acte had never ben had ne made.

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V. Proviso for conveyances made bona fide, and on good consideration.

PROVYDED also and be it enacted by thaucthoriti aforesaid, that this Acte or any thynge therein contayned shall not extend to any estate or interest, in landes tenementis hereditamentis leases rentes comons profites goodes or catals, had made conveyed or assured or hereafter to be had made conveyed or assured, which estate or interest is or shalbe upon good consyderation, and bona fide lawfully conveyed or assured to any person or persons or bodyes politique or corporate, not havyng at the tyme of suche conveyaunce or assurance to them made any maner of notice or knowledge of suche covyne fraude or collusion as is aforesaid; any thing before mentioned to the contrary hereof notwithstandynge.

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27 ELIZABETH. A. D. 1584 [& 1585].

CHAPTER IV.

An Act against covenous and fraudulent conveyaunces (*a*).

For avoiding mischiefs by fraudulent conveyances of lands:

FORASMUCH as not onely the Queenes most excellent Majestie, but also divers of her Highnes good and lovinge subjectes and bodies politique and corporate, after conveiances obtained or to be obtained and purchases made or to be made of landes tenementes leases estates and hereditamentes for money or other good considerations, may have incurre and receive great losse and prejudice, by reason of fraudulent and covenous conveiances estates giftes grauntes charges & limitations of uses, heretofore made or hereafter to be made of in or out of lands tenementes or hereditamentes so purchased or to be purchased; which said giftes

(*a*) See *Azim un Nissa Begum* v *Dale*, 6 Mad. H. C Rep. 474 cited supra, p. 12.

grauntes charges estates uses and conveiances were or hereafter shal be meant or intended, by the parties that so make the same, to be fraudulent and covenous, of purpose and entent to deceive such as have purchased or shall purchase the same, or els, by the secret entent of the parties, the same be to their owne proper use and at their fre disposition, coloured neverthelesse by a fained countenance and shewe of woordes and sentences, as though the same were made bona fide for good causes and upon just and lawfull considerations: For remidy of which inconveniences, and for the avoyding of such fraudulent fayned and covenous conveyances giftes grantes charges uses and estates, and for the maintenance of upright and just dealing in the purchasing of landes tenements and hereditaments, be it ordeined and enacted by the authoritie of this present Parliament, that all and everie conveiance graunt charge lease estate incombrance and limitation of use or uses, of in or out of any landes tenements or other hereditamentes whatsoever, had or made any time heretofore sithence the beginninge of the Queenes Majesties raigne that nowe is, or at any time hereafter to be had or made, for the intent and of purpose to defraude and deceive such person or persons bodies pollitique or corporate as have purchased or shall afterwardes purchase in fe simple fe taile for life lives or yeres the same landes tenementes and hereditamentes, or any part or percell thereof, so formerly conveid graunted leased charged incumbred or limitted in use, or to defraude and deceive such as have or shall purchase any rent profite or commoditie in or out of the same, or any parte thereof, shall be deemed and taken, only as against that person and persons bodies pollitique and corporate, [or his[1]] heirs successors executors administrators and assignes, and against all and everi other person and persons lawfully having or claiming by from or under them or any of them, which have purchased or shall hearafter so purchase for money or other good consideration the same landes tenements or hereditaments, or [other[2]] part or percell thereof, or any rent profet or commoditie in or out of the same, to be utterly voide frustrate and of none effecte; any pretence, colour, fained consideration, or expressinge of any use or uses, to the contrari notwithstanding.

Fraudulent conveyances, made to deceive purchasers, declared void as against such purchasers.

And be it foorther inacted by the authoritie aforesaide, that all and everie the parties to such fained covenous and fraudulent giftes grauntes leases charges or conveiances before expressed, or beinge privie and knowing of the same or any of them, which after the xx day of Aprill next cominge shall wittingely and willingly put in ure avow maintaine justifie or defende the same or any of them, as true simple and done had or made bona fide or upon good consideration, to the disturbance or hinderance of the said purchaser or purchasers [leasses or grauntes,[3]] or of or to the disturbance or hinderance of

II. Penalty upon all parties to such fraudulent conveyances, putting the same in effect, one year's value, half to the crown and half to the party grieved;

[1] his and theire *O: Dup.* [2] any *Dup.* [3] lessees or grauntees *O: Dup.*

and half a year's imprisonment.

their heires successors executors administrators or assignes, or such as have or shall lawfully claim anything by from or under them or any of them, shall incurre the penaltie [or[1]] forfaiture of one yeres value of the said landes tenementes and hereditamentes so purchased or charged; the one moitie whereof to be to the Queenes Majestie her heirs [or[2]] successors, and the other moitie to the partie or parties greved by such fained and fraudulent gift graunt lease conveiance incumbrance or limatation of use; to be recovered in any of the Queenes courtes of recorde by action of debt bill plaint or information, wherein no essoine protection or wager of lawe shall be admitted for the defendant or defendants; and allso being thereof lawfully convicted shall suffer imprisonment for one halfe yere without baile or mainprise.

III. Proviso for conveyances made on good consideration, &c

PROVIDED also and be it enacted by the authoritie aforesaid, that this Acte or any thing therin contained shall not extend or be construed to impeach defait make void or frustrate any conveiance assignement of lease assurance graunt charge lease estate interest or limitation of use or uses, of in to or out of any landes tenementes or hereditaments, heretofore at any time hade or made or hereafter to be hade or made, upon or for good consideration and bona fide, to any person or persons bodies pollitique or corporate; any thinge before mentionede to the contrary heereof notwithstandinge.

IV. Conveyances made revocable, of lands afterwards sold for good consideration, declared void against the purchasers.

AND be it further enacted by the authoritie aforesaide, that if any person or persons have heretofore, sithens the beginning of the Queenes Majesties raigne that nowe is, made, or hereafter shall make, any conveiance gift graunt demise charge limitation of use or uses or assurance, of in or out of any lands tenementes or hereditamentes, with ani clause provision article or condition of revocation determination or alteration at his or their will or pleasure of such conveiances assurance grauntes limitations of uses or estates, of in or out of the saide landes tenementes or hereditamentes or of in or out of any part or parcell of them, contained or mentioned in any writinge deede or indenture of such assurance conveiance graunte or gift; and after such conveiance graunte gift demise charge limitation of uses or assurance so made or had, shall or doe bargaine sell demise graunt convey or charge the same landes tenementes or hereditamentes, or any part or parcell thereof, to any personn or personns bodies pollitique or corporate, for money or other good consideration paid or geyven, the saide first conveiance assurance gift graunt demise charge or limitation not by him or them revoked made voyde or altered, accordinge to the power and authoritie reserved or expressed unto him or them in and by the said secrete conveiance assurance gift or graunt, that then the said former conveiance assurance gift demise and graunte, as touching the said landes tenements and hereditamentes so after bargained sold conveyed demised

[1] and O: *Dup.*

or charged, against the said [bargaines vendides leases graundees[1]] and everie of them, their heires successors executors administrators and assignes, and against all and everie person and persons which have shal or may lawfully claime any thing by from or under them or any of them, shall be demed taken and adjudged to be void frustrate and of none effecte, by vertue and force of this present Acte: Provided nevertheless that no lawfull morgage, made or to be made bona fide and without fraud or covin upon good consideration, shall be impeached or impaired by force of this Acte, but shall stande in like force and effecte as the same shoulde have done if this Acte had never bene had nor made; any thinge in this Acte to the contrarie in any wise notwithstanding.

Proviso for mortgages

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29 ELIZABETH. A. D. 1586-87.

Chapter IV.

An Acte to prevent Extorcion in Shirieffs Under-Shirieffs and Bayliffes of Fraunchesies or Libertyes, in cases of Execucion (a).

Be it inacted by the authoritie of this present Parliament, that yt shall not be laufull, from the firste daye of Maie nowe nexte ensuynge, to or for anye shirief under-shirief baylief of fraunchises or liberties, nor for anye of their or either of their officers mynisters servantes baylieffs or deputyes, nor for anye of them, by reason or collour of their or either of their office or offices, to have receve or take of anye person or persons whatsoever, directlye or indirectlie, for the servyng and executinge of any extent or execution upon the bodye landes goods or chattelles of anye person or persons whatsoever, more or other consideracion or recompence then in this present Acte ys and shalbe lymyted and appoynted whiche shalbe laufull to be hadd receyved and taken; that is to saye, twelve pence of and for everie twentie shillings where the [same [2]] exceedeth not one hundreth poundes, and sixe pence of and for everie twentie shillings, beinge over and above the saide somme of one hundreth poundes, that he or they shall soe levie or extende and deliver in execucion, or take the bodie in execucion for, by vertue and force of anye such extent or execucion whatsoever; upon payne and penaltye that all and everye shirief under-shirief baylief of fraunchises or liberties, their and everie of their ministers servaunts officers bailieffs or deputies, whiche at ayne tyme after the saide firste daye of Maye nowe next ensuynge, shall directlie or indirectlie doe

Fees of sheriffs, &c., on executions 1 *s.* in the pound, up to £100, and 6 *d.* in the pound above.

Penalty on extortion, treble damages to the party grieved; and

[1] bargances vendees lessees grauntees *O*: *Dup.*

[2] Somme *O. Dup.*

(*a*). This Statute was treated as applicable in *Miller* v. *Abbot*, 1 Strange, Notes of Cases, 182. See 24 and 25 Vic. c. 104, s. 15.

£40 to the use of the crown, &c.

the contrarie, shall lose and forfeyte to the partie grieved his treble damage; and shall forfeyte the somme of fourtie poundes of good and laufull Englishe money for everie tyme that he they or anye of them shall doe the contrarie, the one moytie thereof to be to our soveraigne ladye the Quene her heires and successors, and thother moytie therof to the partie or parties that will sue for the same, by any playnte accion suyte bill or informacion, wherein noe essoyne wager of lawe or protection shalbe allowed.

II. Not to extend to corporations.

PROVIDED alwaies, that this Acte, or any thinge therein conteyned, shall not extend to anye fees to be taken or had for anye execucion within any cittie or towne corporate; anye thinge abovementioned to the contrarie therof notwithstandinge.

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3 CHARLES I. A. D. 1627.

CHAPTER I.

Rot Parl. nu. 1.

The Peticion Exhibited to His Majestie by the Lords Spirituall and Temporall and Commons in this present Parliament assembled concerning divers Rights and Liberties of the Subjects: with the Kings Majesties Royall Aunswere thereunto in full Parliament.

TO THE KINGS MOST EXCELLENT MAJESTIE.

Reciting that by (25) 34 Ed. I. st. 4. c. 1. by authority of Parliament holden 25 Ed. III. and by other laws of this realm the king's subjects should not be taxed but by consent in Parliament;

HUMBLY shew unto our soveraigne lord the King the lords spirituall and temporall and commons in Parliament assembled, that whereas it is declared and enacted by a Statute made in the tyme of the raigne of King Edward the First commonly called Statutum de Tallagio non concedendo, that no Tallage or ayde should be layd or levyed by the King or his heires in this realme without the good will and assent of the archbishopps bishopps earles barons knights burgesses and other the freemen of the commonaltie of this realme, and by authoritie of Parliament holden in the five and twentith yeare of the raigne of King Edward the Third, it is declared and enacted, that from thenceforth no person should be compelled to make any loanes to the King against his will because such loanes were against reason and the franchise of the land, and by other lawes of this realme it is provided, that none should be charged by any charge or imposicion called a benevolence nor by such like charge by which the statutes before mencioned and other the good lawes and statutes of this realme your subjects have inherited this freedome that they should [not[1]] be compelled to contribute to any taxe tallage ayde or other like charge not sett by common consent in Parliament.

II. and that commissions have of late

YET nevertheless of late divers commissions directed to sundry commissioners in severall counties with instruccions have issued, by meanes whereof your people have been in divers places assembled and required to lend certaine

[1] interlined on the roll

sommes of mony unto your Majestie, and many of them uppon their refusall soe to doe have had an oath administered unto them not warrantable by the lawes or statutes of this realme and have been constrayned to become bound to make apparance and give attendance before your privie councell and in other places; and others of them have been therefore imprisoned confined and sundry other waies molested and disquieted and divers other charges have been laid and levied upon your people in severall counties by lord lieutenants deputie lieutenants commissioners for musters justices of peace and others by commaund or direccion from your Majestie or your privie councell against the lawes and free customes of the realme.

issued on which proceedings have been had contrary to law.

AND where alsoe by the Statute called the Great Charter of the liberties of England, it is declared and enacted, that no freeman may be taken or imprisoned or be disseised of his frechold or liberties or his free customes or be outlawed or exiled or in any manner destroyed, but by the lawfull judgment of his peeres or by the law of the land.

III. Reciting 9 Hen. III. M. C. c. 29.

AND in the eight and twentith yeere of the raigne of King Edward the Third it was declared and enacted by authoritie of Parliament, that no man of what estate or condicion that he be, should be put out of his land or tenements nor taken nor imprisoned nor disherited nor put to death without being brought to aunswere by due processe of lawe.

IV. 28 Edw. III. c. 3.

NEVERTHELESSE against the tenor of the said statutes and other the good lawes and statues of your realme to that end provided, divers of your subjects have of late been imprisoned without any cause shewed: And when for their deliverance they were brought before your justices by your Majesties writts of habeas corpus there to undergoe and receive as the court should order, and their keepers commaunded to certifie the causes of their detayner, no cause was certified, but that they were deteined by your Majesties speciall commaund signified by the lords of your privie councell, and yet were returned backe to severall prisons without being charged with any thing to which they might make aunswere according to the lawe.

V. and that divers subjecte have been imprisoned without cause shewn, or cause of detainer certified;

AND whereas of late great companies of souldiers and marriners have been dispersed into divers counties of the realme, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojourne against the lawes and customes of this realme and to the great greivance and vexacion of the people.

VI. and that soldiers have been dispersed in divers counties, and inhabitants compelled to receive them.

AND whereas alsoe by authoritie of Parliament in the five and twentith yeare of the raigne of King Edward the Third it is declared and enacted that no man should be forejudged of life or limbe against the forme of the Great Charter and the lawe of the land, and by the said Great Charter, and other

VII. 25 E. III.

the lawes and statutes of this your realme no man ought to be adjudged to death but by the lawes established in this your realme, either by the customes of the same realme or by Acts of Parliament: And whereas no offendor of what kinde soever is exempted from the proceedings to be used and punishments to be inflicted by the lawes and statues of this your realme, neverthelesse of late [tyme[1]] divers commissions under your Majesties great seale have issued forth, by which certaine persons have been assigned and appointed commissioners with power and authoritie to proceed within the land according to the justice of martiall lawe against such souldiers or marriners or other dissolute persons joyning with them as should committ any murther robbery felony mutiny or other outrage or misdemeanor whatsoever, and by such summary course and order as is agreeable to martiall lawe and as is used in armies in tyme of warr to proceed to the tryall and condemnacion of such offenders, and them to cause to be executed and putt to death according to the lawe martiall.

and that commissions have issued under the great seal for proceedings according to martial law.

By pretext whereof some of your Majesties subjects have been by some of the said commissioners put to death, when and where, if by the lawes and statutes of the land they had deserved death, by the same lawes and statutes alsoe they might and by no other ought to have byn judged and executed.

And alsoe sundrie greivous offendors by colour thereof clayming an exempcion have escaped the punishments due to them by the lawes and statutes of this your realme, by reason that divers of your officers and ministers of justice have unjustlie refused or forborne to proceed against such offendors according to the same lawes and statutes uppon pretence that the said offendors were punishable onelie by martiall law and by authoritie of such commissions as aforesaid. Which commissions and all other of like nature are wholly and directlie contrary to the said lawes and statutes of this your realme.

VIII. The petition.

They doe therfore humblie pray your most excellent Majestie, that no man hereafter be compelled to make or yeild any guift loane benevolence taxe or such like charge without common consent by Acte of Parliament, and that none be called to make aunswere or take such oath or to give attendance or be confined or otherwise molested or disquieted concerning the same or for refusall thereof. And that no freeman in any such manner as is before mencioned be imprisoned or deteined. And that your Majestie would be pleased to remove the said souldiers and mariners and that your people may not be soe burthened in tyme to come. And that the aforesaid commissions for proceeding by martiall lawe may be revoked and annulled. And that hereafter no commissions of like nature may issue forth to any person or persons whatsoever to be executed as aforesaid, lest by colour of them any of your Majesties subjects be destroyed or put to death contrary to the lawes and franchise of the land.

[1] interlined on the roll.

ALL which they most humblie pray of your most excellent Majestie as their rights and liberties according to the lawes and statutes of this realme, and that your Majestie would alsoe vouchsafe to declare that the awards doings and proceedings to the prejudice of your people in any of the premisses shall not be drawen hereafter into consequence or example. And that your Majestie would be alsoe graciouslie pleased for the further comfort and safetie of your people to declare your royall will and pleasure, that in the things aforesaid all your officers and ministers shall serve you according to the lawes and statutes of this realme as they tender the honor of your Majestie and the prosperitie of this kingdome.

Qua quidem petitione lecta & plenius intellecta per dictum dominum regem taliter est responsum in pleno parliamento videlicet.

R°. Soit droit fait come est desire.

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17 CHARLES II. A. D. 1665.

CHAPTER VII.

An Act for a more speedy and effectuall Proceeding upon Distresses and Avowryes for Rents.

Rot. Parl. 17 C. II. nu. 8.

FORASMUCH as the ordinary remedy for arrearages of rents is by distresse upon the lands chargable therewith and yet neverthelesse by reason of the intricate and dilatary proceedings upon replevins that remedy is become ineffectuall. For remedy thereof it is enacted by the Kings most excellent Majestie with the advice and assent of the lords spirituall and temporall and commons in this present Parlyament assembled and by authoriti of the same that whensoever any plaintiffe in replevin shall be nonsuite before issue joyned in any suite of replevin by [plaint or][1] writt lawfully returned removed or depending in any of the Kings courts at Westminster that the defendant makeing a suggestion in nature of an avowry or cognizance for such rent to ascertaine the court of the cause of distresse the court upon his prayer shall award a writt to the sheriffe of the county where the distresse was taken to enquire by the oathes of twelve good and lawfull men of his balywicke touching the summe in arreare at the time of such distresse taken and the value of the goods or cattell destrained, and thereupon notice of fifteene dayes shall be given to the plaintiffe or his attourney in court of the sitting of such enquiry and thereupon the sheriffe shall enquire of the trueth of the matters contained in such writt by the oathes of twelve good and lawfull men of his county, and upon the returne of such inquisition the

Reasons for passing this Act.

Remedy upon a nonsuit before issue.

Writ of inquiry of damages.

On notice to plaintiff, sheriff to execute writ.

[1] interlined on the roll.

Judgment for defendant.

defendant shall have judgement to recover against the plaintiffe the arrearages of such rent in case the goods or cattell destrained shall amount unto that value, and in case they shall not amount to that value then soe much as the value of the said goods and cattell soe destrained shall amount unto together with his full costs of suite and shall have execution thereupon by fieri facias or elegit or otherwise as the law shall require.

Execution.

II. Remedy upon a non-suit after issue.

AND in case such plaintiffe shall be nonsuite after conusance or avowry made and issue joyned or if the verdict shall be given against such plaintiffe then the jurors that are impannelled or returned to inquire of such issue shall at the prayer of the defendant enquire concerning the summe of the arreares and the value of the goods or cattell destrained and thereupon the avowant or he that makes conusance shall have judgement for such arrearages or soe much thereof as the goods or cattell destrained amounts unto together with his full costs and shall have execution for the same by fieri facias or elegit or otherwise as the law shall require.

Judgment for avowant.

Execution

III. Remedy after demurrer.

AND bee it further enacted by the authority aforesaid that if judgement in any of the courts aforesaid be given upon demurrer for the avowant or him that maketh conusance for any rent the court shall at the prayer of the defendant award a writt to inquire of the value of such distresse and upon the returne thereof judgement shall be given for the avowant, or him that makes conusance as aforesaid for the arreares alledged to be behinde in such avowry or conusance if the goods or cattell soe destrained shall amount to that value, and in case they shall not amount to that value, then for soe much as the said goods or cattell soe destrained amount unto together with his full costs of suite and shall have like execution as aforesaid.

Judgment for avowant

Execution.

IV. Where goods not of sufficient value, distress from time to time for residue.

[PROVIDED alwayes and bee it enacted that in all cases aforesaid where the value of the cattell destrained as aforesaid shall not be found to be to the full value of the arreares destrained for that the partie to whom such arreares were due his executors or administrators may from time to time destraine againe for the residue of the said arreares.[1]]

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18 & 19 CHARLES II. A. D. 1666.

CHAPTER XI.

Rot. Parl. 18 & 19, c. II, nu. 11.

An Act for Redresse of Inconveniencies by want of Proofe of the Deceases of Persons beyond the Seas or absenting themselves, upon whose Lives Estates doe depend.

Recital that cestui que vies have gone beyond sea,

WHEREAS diverse lords of mannours and others have used to grant estates by copy of court roll for one two or more life or lives according to the custome of their severall mannours and have alsoe granted estates by lease for one

[1] annexed to the original Act in a separate schedule.

and that reversioners cannot find out whether they are alive or dead.

or more life or lives, or else for yeares determinable upon one or more life or lives and it hath often happened that such person or persons for whose life or lives such estates have beene granted have gone beyond the seas or soe absented themselves for many yeares that the lessors and reversioners cannot finde out whether such person or persons be alive or dead by reason whereof such lessors and reversioners have beene held out of possession of their tenements for many yeares after all the lives upon which such estates depend are dead in regard that the lessors and reversioners when they have brought actions for the recovery of their tenements have beene putt upon it to prove the death of their tennants when it is almost impossible for them to discover the same, for remedy of which mischeife soe frequently happening to such lessors or reversioners bee it enacted by the Kings most excellent Majestie by and with the advice and consent of the lords spirituall and temporall and the commons in this present Parlyament assembled and by the authoritie of the same that if such person or persons for whose life or lives such estates have beene or shall be granted as aforesaid shall remaine beyond the seas or elsewhere absent themselves in this realme by the space of seaven yeares together and noe sufficient and evident proofe be made of the lives of such person or persons respectively in any action commenced for recovery of such tenements by the lessors or reversioners in every such case the person or persons upon whose life or lives such estate depended shall be accounted as naturally dead, and in every action brought for the recovery of the said tenements by the lessors or reversioners their heires or assignes, the judges before whom such action shall be brought shall direct the jury to give their verdict as if the person soe remaining beyond the seas or otherwise absenting himselfe were dead (*a*).

Cestui que vie remaining beyond sea for seven years together and no proof of their lives, judge in an action to direct a verdict as though cestui que vie were dead.

Section II omitted as inapplicable to India.

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IV. If the supposed dead man prove to be alive, then the title is revested.

[PROVIDED alwayes and bee it enacted that if any person or [person or[1]] persons shall be evicted out of any lands or tenements by vertue of this Act, and afterwards if such person or persons upon whose life or lives such estate or estates depend shall returne againe from beyond the seas, or shall on proofe in any action to be brought for recovery of the same [to[1]] be made appeare to be liveing; or to have beene liveing at the time of the eviction that then and from thenceforth the tennant or lessee who was outed of the same his or their executors administrators or assignes shall or may reenter repossesse have hold and enjoy the said lands or tenements in his or their former estate for and dureing the life or lives or soe long terme as the said person or persons upon whose life or lives the said estate or estates depend shall be liveing, and alsoe shall upon action or actions to be brought by him

[1] *O.* omits.

(*a*) See the Indian Evidence Act (I of 1872), sec 108.

Action for mean profits with interests.

or them against the lessors reversioners or tennants in possession or other persons respectively which since the time of the said eviction received the proffitts of the said lands or tenements recover for damages the full proffitts of the said lands or tenements respectively with lawfull interest for and from the time that he or they were outed of the said lands or tenements, and kepte or held out of the same by the said lessors reversioners tennants or other persons who after the said eviction received the proffitts of the said lands or tenements or any of them respectively as well in the case when the said person or persons upon whose life or lives such estate or estates did depend are or shall be dead at the time of bringing of the said action or actions as if the said person or persons were then liveing [1].

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22 & 23 CHARLES II. A. D. 1670 & 1671.

Chapter XI.

Rot Parl. 22 & 23 c. II, p. 1, nu. 11.

An Act to prevent the delivery up of Merchants' Shipps, and for the Increase of good and serviceable Shipping.

Reasons for passing this Act.

Whereas it often happeneth that masters and commanders of merchants shipps doe suffer their shipps to be boarded, and their goods to be taken out by pirates and sea-rovers, notwithstanding they have sufficient force to defend themselves, whereby not onely the merchants are much prejudiced but the honour of the English navigation is thereby much diminished, and merchants discouraged from ladeing their goods on board English shipps to the decay of shipping. In the preservation of which the wealth, honour and safety of this nation is soe much concerned, to which the said masters are incouraged by a practice used towards them by the Turkes and others who after they have taken out the goods as encouragement to masters of shipps to yeild, doe not onely restore the shipp with such goods as are claimed by the masters or seamen but many times pay unto the masters all or some part of the freight, which hath many times caused suspition of treachery in the said masters to the great dishonour of the English nation. For the prevention thereof for the future and for the better incouragement to merchants as well forreigners as English to freight and use English shipps bee it enacted by the Kings most excellent Majestie by and with the advice and consent of the lords spirituall and temporall and commons assembled in Parlyament and by authoritie of the same that where any goods or merchandices shall be laden on board [any[2]] English shipp, which shipp shall be of the burthen of two hundred tunns or upwards and mounted with sixteene gunns or more, if the master or commander shall yeild up the said

Master delivering up ship (of 200 tons and 16 guns) to pirates or others without fighting.

[1] annexed to the original Act in a separate Schedule.

[2] interlined on the roll.

goods to any Turkish shipps or vessells, or to any pirates or sea-rovers whatsoever without fighting, that then and in such case the master shall upon proofe thereof made in the High Court of Admiraltie be from thenceforth incapeable of takeing charge of any English shipp or vessell as master or commander thereof. And if he shall at any time thereafter presume to take upon him to command any English shipp or vessell, he shall suffer imprisonment by warrant from the said court dureing the space of six months for every sueh offence; and in case the persons soe takeing the said goods shall release give backe or lett passe [1] the said shipp shall pay unto the said master any summe or summes of money, or any goods in lieu of money for freight or other reward or gift, that in all or any such cases the said goods or money soe given or the value thereof, as alsoe the masters part of such shipp her tackle, apparell and furniture soe released, given backe or lett passe, out of which the said goods were taken shall be lyeable to repaire the persons whose goods were soe delivered or taken by action in the High Court of Admiralty, and in case the commanders or masters part of the shipp, tackle, apparell and furniture together with such money and goods given as aforesaid shall not be sufficient to repaire all the dammages sustained, then the reparations to be recovered on the masters or commanders part of the shipp to be divided *pro rata* amongst the persons prosecuting and proveing their damages, and the persons damaged to have their action against the master for the remainder.

Incapacity.

Taking command afterwards, imprisonment.

In what case, where goods or ships taken are released and money given to the master, the master liable to repairs, and in what proportion.

II. The master not to depart out of his ship.

And bee it further enacted by the authoritie aforesaid that noe master of any such English shipp as aforesaid being at sea, and haveing discovered any shipp to be a Turkish shipp, pirate or sea rover shall depart out of his shipp upon any pretence whatsoever least by his detention on board any such shipp the safety of his owne shipp be hazarded.

III. Not fighting when the ship is under 200 tons and 16 guns.

And bee it further enacted that if the master of any English shipp or vessell though not of the burthen of two hundred tunns or mounted with sixteene gunns as aforesaid shall yeild his shipp unto any Turkish shipp, pirate or sea rover (not haveing at the least his double number of gunns) without fighting, every such master shall be lyeable to all and every the penaltyes in this Act contained.

Penalty.

IV. Such ships not fighting, the masters or ships may be seized by process out of Admiralty.

And bee it further enacted by the authoritie aforesaid that upon processe made out of the High Court of Admiralty, it shall and may be lawfull to and for all commanders of his Majestyes shipps of warr or the commanders of any other English shipps to seize such shipps or masters soe offending according to the said processe in such case to be issued, and the same to bring or send in custody into any ports of His Majestyes dominions there to be proceeded against according to the intent and meaning of this Act.

[1] the O.

V. Proviso for ports of states in amity.

PROVIDED that none be hereby encouraged to violate the rights of the ports of any forreigne prince or state in amity with the Kings Majestie.

VI. Mariners, &c. refusing to fight.

AND bee it further enacted by the authoritie aforesaid that if the marriners or inferiour officers of any English shipp laden with goods and merchandices as aforesaid shall decline or refuse to fight and defend the shipp when they shall be thereunto commanded by the master or commander thereof, or shall utter any words to discourage the other marriners from defending the shipp, that every marriner who shall be found guilty of declineing or refuseing as aforesaid shall loose all his wages due to him together with such goods as he hath in his shipp, and suffer imprisonment not exceeding the space of six monthes and shall dureing such time be kepte to hard labour for his or their maintenance.

Penalty.

Punishment.

VII. Proviso where the master is forced by his men to yield.

PROVIDED alwayes that if any shipp shall have beene yeilded as aforesaid contrary to the will and endeavour of the master or commander by the disobedience of the marriners, testifyed by their haveing laid violent hands on him. That in such case the master or commander shall not be lyable to the sentence of incapacity as aforesaid, nor to any action for the losses sustained by the merchants unlesse he shall have received backe from the takers thereof his shipp, or some recompence gift or reward as aforesaid.

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IX. Provision for officers or seamen wounded in defence of ship;

AND for the better encouragement to captaines, masters officers and seamen to defend their shipp bee it enacted by the authority aforesaid that when any English shipp shall have beene defended by fight and brought to her designed port, in which fight any of the officers or seamen shall have beene wounded it shall and may be lawfull to and for the judge of his Majestyes High Court of Admiralty or his surrogate or the judge of the Vice-Admiralty within which the shipp shall arrive at her returne upon petition of the master or seamen of such shipp soe defended as aforesaid to call unto him such and soe many as he shall be informed to be adventurers or owners of the shipp and goods soe defended, and by advice with them to raise and leavy upon the respective owners and adventurers by processe out of the said court such summe or summes of money as himselfe with the major part of the adventurers or owners then present shall judge reasonable not exceeding the value of two per centum of the shipp and goods soe defended according to the first cost of the goods to be made appeare by the envoice (which the owner or his factor or correspondent is hereby required to produce) or by the oath of the said owner, factor or correspondent if thereunto required. Which money soe raised shall be paid unto the register of the said court who shall receive for the same three pence in each pound and noe more, thence to

be distributed amongst the captaine, master officers and seamen of the said shipp or widdowes and children of the slaine according to the direction of the judge of the said court with the approbation of three or more of the owners or adventurers aforesaid who shall proportion the same according to their best judgements unto the shipps company as aforesaid, haveing speciall reguard unto the widdowes and children of such as shall [have[1]] [be[2]] slaine in that service, and to such as shall have beene wounded or maimed.

and for widows and children of mariners, &c., slain.

X. Prize money as in cases of privateers.

AND in case the company belonging unto any English merchant shipp shall happen to take any shipp, which shipp shall first have assaulted them, the respective officers and marriners belonging to the same shall after condemnation of such shipp and goods have and receive to their owne proper use and benefitt such part and share thereof as is usually practised in private men of warr.

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29 CHARLES II. A. D. 1677.

CHAPTER III.

An Act for prevention of Frauds and Perjuryes(a).

Rot. Parl. 29, c. II. p. 2, nu. 2.

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VII. Declarations or creations of trusts of lands to be in writing signed.

AND bee it further enacted by the authoritie aforesaid that from and after the said fower and twentyeth day of June all declarations or creations of trusts or confidences of any lands tenements or hereditaments shall be manifested and proved by some writeing signed by the partie who is by law enabled to declare such trust or by his last will in writeing or else they shall be utterly void and of none effect.

VIII. Proviso for trusts arising, transferred or extinguished by implication of law.

PROVIDED alwayes that where any conveyance shall bee made of any lands or tenements by which a trust or confidence shall or may arise or result by the implication or construction of law or bee transferred or extinguished by an act or operation of law then and in every such case such trust or confidence shall be of the like force and effect as the same would have beene if this statute had not beene made. Any thing hereinbefore contained to the contrary notwithstanding.

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[1] interlined on the roll.

[2] beene *O.*

(*a*) Sections 5 and 6, as to devises of land, are in force as to wills made before 1st February 1839, *Doe* d. *Savage* v. *Tagore*, Morton ed. Montriou, 105, when Act XXV of 1838 came into operation. Sec. 17 was in force in the Presidency Towns, (*Manikji* v. *Mehervanji* v. *Rahimtulla Alabhai*, 1 Bomb. App. 1) but this, with secs. 1, 2, 3 and 4, was repealed by Act IX of 1872. Secs. 13, 14, 15, 16, 22, 23 and 24 were repealed by Act XII of 1873.

IX. Assignments of trusts shall be in writing.

AND bee it further enacted that all grants and assignments of any trust or confidence shall likewise be in writeing signed by the partie granting or assigning the same [or[1]] by such last will or devise or else shall likewise be utterly void and of none effect.

X. Lands, &c., of cestui que trust liable to the judgments, &c.

AND bee it further enacted by the authoritie aforesaid that from and after the said fower and twentyeth day of June it shall and may be lawfull for every sheriffe or other officer to whome any writt or precept is or shall be directed at the suite of any person or persons of for and upon any judgment statute or recognizance hereafter to be made or had, to doe make and deliver execution unto the partie in that behalfe sueing of all such lands tenements rectories tythes rents and hereditaments as any other person or persons be in any manner of wise seised or possessed [or hereafter shall be seised or possessed[1]] in trust for him against whome execution is soe sued like as the sheriffe or other officer might or ought to have done if the said partie against whome execution hereafter shall be soe sued had beene seised of such lands tenements rectories tythes rents or other hereditaments of such estate as they be seized of in trust for him at the time of the said execution sued. Which lands tenements rectories tythes rents and other hereditaments by force and vertue of such execution shall accordingly be held and enjoyed freed and discharged from all incumbrances of such person or persons as shall be soe seised or possessed in trust for the person against whome such execution shall be sued. And if any cestuy que trust hereafter shall dye leaveing a trust in fee simple to descend to his heire, there, and in every such case such trust shall be deemed and taken and is hereby declared to be assetts by descent and the heire shall be lyable to and chargeable with the obligation of his auncestors for and by reason of such assetts as fully and amply as he might or ought to have beene if the estate in law had descended to him in possession in like manner as the trust descended, any law custome or usage to the contrary in any wise notwithstanding.

and held free from the incumbrances of the persons seized in trust.

Trust shall be assets by descent.

XI. But heir shall not by reason thereof become chargeable of his own estate.

PROVIDED alwayes that noe heire that shall become chargeable by reason of any estate or trust made assetts in his hands by this law shall by reason of any kinde of plea or confession of the action or suffering judgement by nient dedire or any other matter bee chargeable to pay the condemnation out of his owne estate but execution shall be sued of the whole estate soe made assetts in his hands by descent in whose hands soever it shall come after the writt purchased in the same manner as it is to be at and by the common law where the heire at law pleading a true plea judgement is prayed against him thereupon. Any thing in this present Act contained to the contrary notwithstanding.

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[1] interlined on the roll.

29 CHARLES II. A. D. 1677.

CHAPTER VII.

An Act for the better Observation of the Lord's day commonly called Sunday. Rot. Parl. 29 c. II, p. 2, nu. 6.

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PROVIDED alsoe that noe person or persons upon the Lord's day shall serve or execute or cause to be served or executed any writt, processe, warrant, order judgement or decree (except in cases of treason felony or breach of the peace) but that the service of every such writt, processe, warrant, order judgement or decree shall be void to all intents and purposes whatsoever and the person or persons soe serveing or executeing the same shall be as lyable to the suite of the partie grieved and to answere damages to him for doeing thereof as if he or they had done the same without any writt, processe, warrant, order, judgement or decree at all (*a*).

VI. Service of process on the Lord's day (exception) void.

Persons serving the same liable to

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30 CHARLES II. A. D. 1678.

CHAPTER VII.

An Act to enable Creditors to recover their Debts of the Executors and Administrators of Executors in their owne wrong. Rot. Parl. 30 c. II, p. 1. nu. 7.

WHEREAS the executors and administrators of such persons who have possessed themselves of considerable personall estates of other dead persons and converted the same to their owne use have noe remedy by the rules of the common law as it now stands to pay the debts of those persons whose estate hath beene soe converted by their testator or intestate which hath beene found very mischeivous and many creditors defeated of their just debts although their debtors left behinde them sufficient to satisfie the same with a great overplus. For remedy whereof bee it enacted by the King's most excellent Majestie by and with the advice and consent of the lords spirituall and temporall and the commons in this present Parlyament assembled and by the authoritie thereof that all and every the executors and administrators of any person or persons who as executor or executors in his or their owne wrong or administrators shall from and after the first day of August next ensueing waste or convert any goods chattells estate or assetts of any person deceased to their owne use shall be lyeable and chargeable in the same manner as their testator or intestate would have beene if they had been liveing. .....

Executors, &c., of executors in their own wrong wasting goods of the deceased liable as their testator, &c.

(*a*). This section clearly does not extend to the Mofussil, *Abraham* v. *The Queen*, 1 Beng. Law Rep. Appell. Cr. 17: *Anon.*, 4 Mad. H. C. Rep App. lxii. Whether it applies to any extent in the Presidency towns has not yet been settled. In Appeal Suit No. 26 of 1873, Holloway and Kernan JJ. held that it did not apply where a Muhammadan debtor was arrested on Sunday within the local limits of the Madras High Court's ordinary original jurisdiction. But whether the section confers a personal privilege on an English debtor still remains undecided.

31 CHARLES II. A. D. 1679.

CHAPTER I.

Rot. Parl. 31, c. 11, nu. 1.

An Act for granting a Supply to His Majestie of £206,462 17s. 3d. for paying off and disbanding the Forces raised since the 29th of September 1677.

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XXXII. No officer, &c. to quarter soldiers on any subject without his consent, and any subject may refuse to quarter soldiers.

AND whereas by the lawes and customes of this realme the inhabitants thereof cannot be compelled against their wills to receive souldiers into their houses and to sojourne them there: Bee it declared and enacted by the authoritie aforesaid that noe officer military or civill nor any other person whatever shall from henceforth presume to place quarter or billet any souldier or souldiers upon any subject or inhabitant of this realme of any degree quality or profession whatever without his consent and that it shall and may be lawfull for every such subject and inhabitant to refuse to sojourne or quarter any souldier or souldiers notwithstanding any command order [1] or billetting whatever.(*a*).

CHAPTER II.

Rot. Parl. 31 c. 11, nu. 2.

An Act for the better securing the Liberty of the Subject and for Prevention of Imprisonments beyond the Seas(*b*).

Recital that delays had been used by sheriffs in making returns of writs of habeas corpus, &c.

WHEREAS great delayes have beene used by sheriffes goalers and other officers to whose custody any of the Kings subjects have beene committed for criminall or supposed criminall matters in makeing returnes of writts of habeas corpus to them directed by standing out an alias and pluries habeas corpus and sometimes more and by other shifts to avoid their yeilding obedience to such writts contrary to their duty and the knowne lawes of the land whereby many of the Kings subjects have beene and hereafter may be long detained in prison in such cases where by law they are baylable to their great charge and vexation. For the prevention whereof and the more speedy releife of all

Sheriff, &c. within three

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[1] Warrant *O.*

(*a*.) See *Robinson* v. *Carey*, Bourke, 398, 404, 405 (affirmed on appeal, 1 Ind. Jur. N. S. 88), where Norman J. seemed to think that 31 Car. II, c. 1, s. 32, was not in force out of England.

(*b*.) "The Advocate General argued that the *Habeas Corpus* Act (31 Car. II, cap. 2), was not part of the statute law introduced into India. His argument may be well founded as to certain parts of that statute, which apply specially or by name to the superior courts of common law at Westminster. But other parts, which are general in their terms, apparently do apply to India," *Re Ameer Khan*, 6 Beng. 444, per Norman J. See too *The King* v. *Gordon*, East's Notes, 2 Morl. Dig. 223. Mr. Anstey, 6 Beng. 418, 420, contended that 56 Geo. III, c. 100 (*for more effectually securing the liberty of the subject*) also applied to India.

The Code of Criminal Procedure (Act X of 1872), section 82, enacts that "neither the High Courts nor any Judge of such High Courts shall issue any writ of *habeas corpus* ..... beyond the Presidency Towns." One effect of this is apparently to revive the power to issue such writs into British India which the Court of Queen's Bench at Westminster possessed down to the year 1826, when 25 Vic. cap. 20 was passed.

persons imprisoned for any such criminall or supposed criminall matters bee it enacted by the Kings most excellent Majestie by and with the advice and consent of the lords spirituall and temporall and commons in this present Parlyament assembled and by the authoritie thereof that whensoever any person or persons shall bring any habeas corpus directed unto any sheriffe or sheriffes goaler minister or other person whatsoever for any person in his or their custody and the said writt shall be served upon the said officer or left at the goale or prison with any of the under-officers underkeepers or deputy of the said officers or keepers that the said officer or officers his or their under-officers under-keepers or deputyes shall within three dayes after the service thereof as aforesaid (unlesse the committment aforesaid were for treason or fellony plainely and specially expressed in the warrant of committment) [upon payment or tender of the charges of bringing the said prissoner to be ascertained by the judge or court that awarded the same and endorsed upon the said writt not exceeding twelve pence per mile [1]] and upon security given by his owne bond to pay the charges of carrying backe the prisoner if he shall bee remanded by the court or judge to which he shall be brought according to the true intent of this present Act and that he will not make any escape by the way make returne of such writt [or[2]] bring or cause to be brought the body of the partie soe committed or restrained unto or before the lord chauncellor or lord-keeper of the great seale of England for the time being or the judges or barons of the said court from whence the said writt shall issue or unto and before such other person [and[3]] persons before whome the said writt is made returnable according to the command thereof, and shall [likewise then[4]] certifie the true causes of his detainer or imprisonment unlesse the committment of the said partie be in any place beyond the distance of twenty miles from the place or places where such court or person is or shall be resideing and if beyond the distance of twenty miles and not above one hundred miles then within the space of ten dayes and if beyond the distance of one hundred miles then within the space of twenty dayes after such [5] delivery aforesaid and not longer.

days after service of habeas corpus, with the exception of treason and felony, as and under the regulations herein mentioned, to bring up the body before the Court to which the writ is returnable;

and certify the true causes of imprisonment.

Exceptions in respect of distance.

II. How writs to be marked.

[And to the intent that noe sheriffe goaler or other officer may pretend ignorance of the import of any such writt bee it enacted by the authoritie aforesaid that all such writts shall be marked in this manner Per statutum tricesimo primo Caroli Secundi Regis and shall be signed by the person that awards the same.[1]] And if any person or persons shall be or stand committed or detained as aforesaid for any crime unlesse for treason or fellony plainely

Persons committed, except for treason and felony, &c., may appeal to the lord chancellor, &c.

[1] annexed to the original Act in a separate schedule.
[2] and *O.*
[3] or *O.*
[4] then likewise *O.*
[5] the *O.*

expressed in the warrant of committment in the vacation time and out of terme it shall and may be lawfull to and for the person or persons soe committed or detained (other then persons convict or in execution) by legall processe or any one [in[1]] his or their behalfe to appeale or complaine to the lord chauncellour or lord keeper or any one of his Majestyes justices [either [2]] of the one bench or of the other or the barons of the Exchequer of the degree of the coife and the said lord chauncellor lord keeper justices or barons or any of them upon view of the copy or copyes of the warrant or warrants of committment and detainer or otherwise upon oath made that such copy or copyes were denyed to be given by such person or persons in whose custody the prisoner or prisoners is or are detained are hereby authorized and required [upon request made in writeing by such person or persons or any on his her or their behalfe attested and subscribed by two witnesses [that [3]] were present at the delivery of the same [4]] to award and grant an habeas corpus under the seale of such court whereof he shall then be one of the judges to be directed to the officer or officers in whose custodie the party soe committed or detained shall be returnable immediate before the said [lord chauncellor or [2]] lord-keeper or such justice baron or any other justice or baron of the degree of the coife of any of the said courts and upon service thereof as aforesaid the officer or officers his or their under-officer or under-officers under keeper or under keepers or [their [5]] deputy in whose custodie the partie is soe committed or detained shall within the times respectively before limitted [bring such prisoner or prisoners [2]] before the said lord chauncellor or lord keeper or such justices barons or one of them [before whome the said writt is made returnable and in case of his absence before any other of them [4]] with the returne of the writt and the true causes of the committment and detainer and thereupon within two dayes after the partie shall be brought before them the said lord chauncellor or lord-keeper or such justice or baron before whome the prisoner shall be brought as aforesaid shall discharge the said prisoner from his imprisonment takeing his or their recognizance with one or more suretie or sureties in any summe according to their discretions haveing reguard to the quality of the prisoner and nature of the offence for his or their appearance in the Court of Kings Bench the terme following or at the next assizes sessions or generall goale-delivery of and for such county city or place where the committment was or where the offence was committed or in such other court where the said offence is properly cognizable as the case shall require and then shall certifie the said writt with

Proceedings thereon.

Habeas corpus may be awarded,

and upon service thereof the officer to bring up the prisoners as before mentioned;

and thereupon within two days lord chancellor, &c. may discharge upon recognisance;

and certify the writ with the return and recognizance.

[1] on.
[2] interlined on the roll.
[3] who *O*.
[4] annexed to the original Act in a separate schedule
[5] *O* omits

the returne thereof and the said recognizance or recognizances into the said court where such appearance is to be made unlesse it shall appeare unto the said lord chauncellor or lord keeper or justice or justices [or [1]] baron or barons that the party soe committed is detained upon a legall processe order or warrant out of some court that hath jurisdiction of criminall matters or by some warrant signed and sealed with the hand and seale of any of the said justices or barons or some justice or justices of the peace for such matters or offences for the which by the law the prisoner is not baileable.

Proviso for process not bailable.

[PROVIDED alwayes and bee it enacted that if any person shall have wilfully neglected by the space of two whole termes after his imprisonment to pray a habeas corpus for his enlargement such person soe wilfully neglecting shall not have any habeas corpus to be granted in vacation time in pursuance of this Act.[2]]

III. Habeas corpus not granted in vacation to prisoners who have neglected to pray the same.

AND bee it further enacted by the authoritie aforesaid that if any officer or officers his or their under-officer or under-officers under-keeper or under-keepers or deputy shall neglect or refuse to make the returnes aforesaid or to bring the body or bodies of the prisoner or prisoners according to the command of the said writt within the respective times aforesaid or upon demand made by the prisoner or person in his behalfe shall refuse to deliver or within the space of six houres after demand shall not deliver to the person soe demanding a true copy of the warrant or warrants of committment and detayner of such prisoner, which he and they are hereby required to deliver accordingly all and every the head goalers and keepers of such prisons and such other person in whose custodie the prisoner shall be detained shall for the first offence forfeite to the prisoner or partie grieved the summe of one hundred pounds and for the second offence the summe of two hundred pounds and shall and is hereby made incapeable to hold or execute his said office, the said penalties to be recovered by the prisoner or partie grieved his executors or administrators against such offender his executors or administrators by any action of debt suite bill plaint or information in any of the Kings courts at Westminster wherein noe essoigne protection priviledge injunction wager of law or stay of prosecution by non vult ulterius prosequi or otherwise shall bee admitted or allowed or any more then one imparlance, and any recovery or judgement at the suite of any partie grieved shall be a sufficient conviction for the first offence and any after recovery or judgement at the suite of a partie grieved for any offence after the first judgement shall bee a sufficient conviction to bring the officers or person within the said penaltie for the second offence.

IV. Officer neglecting, &c., to make the said returns, &c.

or upon demand to deliver a copy of warrant of commitment;

first offence, penalty £100;

second offence, £200 and incapacity.

Judgment at suit of party sufficient conviction.

[1] *O.* omits.
[2] annexed to the original Act in a separate schedule.

V
Proviso as to imprisonment of party after having been set at large upon habeas corpus.

AND for the prevention of unjust vexation by reiterated committments for the same offence bee it enacted by the authoritie aforesaid that noe person or persons which shall be delivered or sett at large upon any habeas corpus shall at any time hereafter bee againe imprisoned or committed for the same offence by any person or persons whatsoever other then by the legall order and processe of such court wherein he or they shall be bound by recognizance to appeare or other court haveing jurisdiction of the cause and if any other person or persons shall knowingly contrary to this Act recommitt or imprison or knowingly procure or cause to be recommitted or imprisoned for the same offence or pretended offence any person or persons delivered or sett at large as aforesaid or bee knowingly aiding or assisting therein then he or they shall forfeite to the prisoner or party grieved the summe of five hundred pounds any colourable pretence or variation in the warrant or warrants of committment notwithstanding to be recovered as aforesaid.

Unduly recommitting such discharged persons or assisting therein;

penalty to the party £500.

VI.
If persons committed for high treason or felony plainly expressed in warrant shall not on petition be indicted as herein mentioned, judges, &c., may discharge upon bail;

PROVIDED alwayes and bee it further enacted that if any person or persons shall be committed for high treason or fellony plainely and specially expressed in the warrant of committment upon his prayer or petition in open court the first weeke of the terme or first day of the sessions of oyer and terminer or generall goale delivery to be brought to his tryall shall not bee indicted sometime in the next terme sessions of oyer and terminer or generall goale delivery after such committment it shall and may bee lawfull to and for the judges of the Court of Kings Bench and justices of oyer and terminer or generall goale delivery and they are hereby required upon motion to them made in open court the last day of the terme sessions or goale-delivery either by the prisoner or any one in his behalfe to sett at liberty the prisoner upon baile unlesse it appeare to the judges and justices upon oath made that the witnesses for the King could not be produced the same terme sessions or generall goale-delivery. And if any person or persons committed as aforesaid upon his prayer or petition in open court the first weeke of the terme or first day of the sessions of oyer and terminer or generall goale-delivery to be brought to his tryall shall not be indicted and tryed the second terme sessions of oyer and terminer or generall goale-delivery after his committment or upon his tryall shall be acquitted he shall be discharged from his imprisonment.

proviso;

and if not indicted and tried as herein mentioned then to be discharged.

VII.
Proviso respecting persons charged in debt, &c.

[PROVIDED alwayes that nothing in this Act shall extend to discharge out of prison any person charged in debt or other action or with processe in any civill cause but that after he shall be discharged of his imprisonment for such his criminall offence he shall be kept in custodie according to law for such other suite.[1]]

[1] annexed to the original Act in a separate schedule.

VIII. Persons committed for criminal matter not to be removed but by habeas corpus or other legal writ.

PROVIDED alwaies and bee it enacted by the authoritie aforesaid that if any person or persons subject of this realme shall be committed to [any[1]] prison or in custodie of any officer or officers whatsoever for any criminall or supposed criminall matter that the said person shall not be removed from the said prison and custody into the custody of any other officer or officers unlesse it be by habeas corpus or some other legall writt or where the prisoner is delivered to the constable or other inferiour officer to carry such prisoner to some common goale [or where any person is sent by order of any judge of assize or justice of the peace to any common worke-house or house of correction or where the prisoner is removed from one prison or place to another within the same county in order to his or her tryall or discharge in due course of law or in case of suddaine fire or infection or other necessity[2]] and if any person or persons shall after such committment aforesaid make out and signe or countersigne any warrant or warrants for such removeall aforesaid contrary to this Act as well he that makes or signes or countersignes such warrant or warrants as the officer or officers that obey or execute the same shall suffer and incurr the paines and forfeitures in this Act before-mentioned both for the first and second offence respectively to be recovered in manner aforesaid by the partie grieved.

Unduly making out, &c., warrant for removal; penalty.

IX. Proviso for application for and granting habeas corpus in vacation time. Lord Chancellor, &c. unduly denying writ; Penalty to party £500.

PROVIDED alsoe and bee it further enacted by the authoritie aforesaid that it shall and may be lawfull to and for any prisoner and prisoners as aforesaid to move and obtaine his or their habeas corpus as well out of the High Court of Chauncery or Court of Exchequer as out of the Courts of Kings Bench or Common Pleas or either of them and if the said lord chauncellor or lord-keeper or any judge or judges baron or barons for the time being of the degree of the coife of any of the courts aforesaid in the vacation time upon view of the copy or copies of the warrant or warrants of committment or detainer or upon oath made that such copy or [3] copyes were denyed as aforesaid shall deny any writt of habeas corpus by this Act required to be granted being moved for as aforesaid they shall severally forfeite to the prisoner or partie grieved the summe of five hundred pounds to be recovered in manner aforesaid.

[*Section* X *is omitted as inapplicable to India.*]

XI. No subject to be sent prisoner into Scotland, &c. or any parts beyond the seas.

AND for preventing illegall imprisonments imprisons beyond the seas bee it further enacted by the authoritie aforesaid, that noe subject of this realme that now is or hereafter shall be an inhabitant or resiant of this kingdome of England dominion of Wales or towne of Berwicke upon Tweede shall or may be sent prisoner into Scotland Ireland Jersey Gaurnsey Tangeir or into any parts garrisons islands or places beyond the seas which are or at any time

[1] interlined on the roll.
[2] annexed to the original Act in a separate schedule.
[3] or *O.*

hereafter [shall be[1]] within or without the dominions of his Majestie his heires or successors and that every such imprisonment is hereby enacted and adjudged to be illegall and that if any of the said subjects now is or hereaftor shall bee soe imprisoned [every such person and persons soe imprisoned[1]] shall and may for every such imprisonment maintaine by vertue of this Act an action or actions of false imprisonment in any of his Majestye's courts of record against the person or persons by whome he or she shall be soe committed detained imprisoned sent prisoner or transported contrary to the true meaning of this Act and against all or any person or persons that shall frame contrive write seale or countersigne any warrant or writeing for such committment detainer imprisonment or transportation or shall be adviseing aiding or assisting in the same or any of them and the plaintiffe in every such action shall have judgement to recover his treble costs besides damages which damages soe to be given shall not be lesse then five hundred pounds in which action noe delay stay or stopp of proceeding by rule order or command nor noe injunction protection or priviledge whatsoever nor any more then one imparlance shall be allowed [excepting such rule of the court wherein the action shall depend made in open court as shall bee thought in justice necessary for speciall cause to be expressed in the said rule[2]], and the person or persons who shall knowingly frame contrive write seale or countersigne any warrant for such committment detainer or transportation or shall soe committ detaine imprison or transport any person or persons contrary to this Act or be any wayes adviseing aiding or assisting therein being lawfully convicted thereof shall be disabled from thenceforth to beare any office of trust or proffitt within the said realme of England dominion of Wales or towne of Berwicke upon Tweede or any of the islands territories or dominions thereunto belonging and shall incurr and sustaine the paines penalties and forfeitures limitted ordained and provided in [3] the Statute of provision and premunire made in the sixteenth yeare of King Richard the Second and be incapeable of any pardon from the King his heires or successors of the said forfeitures losses or disabilities or any of them.

Persons so imprisoned may maintain action against the person committing or otherwise acting in respect thereof, as herein mentioned.

Treble costs and damages;

and the person so committing or acting disabled from office, and incur premunire— 16 R. II. C. 5.

and be incapable of pardon.

XII. Proviso for contracts for transportation.

[PROVIDED alwayes that nothing in this Act shall extend to give benefitt to any person who shall by contract in writeing agree with any merchant or owner of any plantation or other person whatsoever to be transported to any parts beyond seas and receive earnest upon such agreement although that afterwards such person shall renounce such contract.[2]]

XIII. And for transportation of

PROVIDED alwayes and bee it enacted that if any person or persons lawfully convicted of any felony shall in open court pray to be transported beyond the seas and the court shall thinke fitt to leave him or them in prison for that

[1] interlined on the roll.
[2] annexed to the original Act in a separate schedule
[3] and by *O.*

purpose such person or persons may be transported into any parts beyond the seas this Act or anything therein contained to the contrary notwithstanding.

persons convicted of felony and praying to be transported.

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XV. Proviso for sending persons to be tried in places where any capital offence committed.

PROVIDED alsoe that if any person or persons at any time resiant in this realme shall have committed any capitall offence in Scotland or Ireland or any of the islands or forreigne plantations of the King his heires or successors where he or she ought to be tryed for such offence such person or persons may be sent to such place there to receive such tryall in such manner as the same might have beene used before the makeing of this Act anything herein contained to the contrary notwithstanding.

XVI. Limitation of prosecution for offences against this Act.

PROVIDED alsoe and bee it enacted that noe person or persons shall be sued impleaded molested or troubled for any offence against this Act unlesse the partie offending be sued or impleaded for the same within two yeares at the most after such time wherein the offence shall be committed [in case the partie grieved shall not be then in prison and if he shall be in prison then within the space of two yeares[1]] after the decease of the person imprisoned or his or her delivery out of prison which shall first happen.

XVII. After assizes proclaimed, no person to be removed from common gaol upon habeas corpus, but brought before judge of assize.

AND to the intent noe person may avoid his tryall at the assizes or generall goale-delivery by procureing his removeall before the assizes at such time as he cannot be brought backe to receive his tryall there bee it enacted that after the assizes proclaimed for that country where the prisoner is detained noe person shall be removed from the common goale upon any habeas corpus granted in pursuance of this Act but upon any such habeas corpus shall be brought before the judge of assize in open court who is thereupon to doe what to justice shall appertaine.

XVIII. After assizes persons detained may have habeas corpus.

PROVIDED neverthelesse that after the assizes are ended any person or persons detained may have his or her habeas corpus according to the direction and intention of this Act.

XIX. In informations, &c. brought for offence against this law; general issue.

AND bee it also enacted by the authoritie aforesaid that if any information suite or action shall be brought or exhibited against any person or persons for any offence committed or to be committed against the forme of this law it shall be lawfull for such defendants to pleade the generall issue that they are not guilty or that they owe nothing and to give such speciall matter in evidence to the jury that shall try the same which matter being pleaded had beene good and sufficient matter in law to have discharged the said defendant or defendants against the said information suite or action and the said matter shall be then as availeable to him or them to all intents and purposes as if he

[1] annexed to the original Act in a separate schedule.

or they had sufficiently pleaded sett forth or alledged the same matter in barr or discharge of such information suite or action.

XX. Proviso as to removal or bail of persons charged as accessories before the fact to petty treason or felony.

AND because many times persons charged with petty treason or felony or as accessaries thereunto are committed upon suspicion onely whereupon they are baileable or not according as the circumstances makeing out that suspicion are more or lesse weighty which are best knowne to the justices of peace that committed the persons and have the examinations before them or to other justices of the peace in the county. Bee it therefore enacted that where any person shall appeare to be committed by any judge or justice of the peace and charged as accessary before the fact to any petty treason or felony or upon suspicion thereof or with suspicion of petty treason or felony which petty treason or felony shall be plainely and specially expressed in the warrant of committment that such person shall not be removed or bailed by vertue of this Act or in any other manner then they might have beene before the makeing of this Act.

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1 WILLIAM & MARY. A. D. 1688.

CHAPTER VI.

An Act for Establishing the Coronation Oath.

[Omitted as not practically useful in India.]

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1 WILLIAM & MARY SESS. II.

CHAPTER II.

An Act declareing the Rights and Liberties of the Subject and Setleing the Succession of the Crowne.

[Omitted for the same reason.]

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2 WILLIAM & MARY. A. D. 1689.

CHAPTER I.

An Act for Recognizing King William and Queene Mary and for avoiding all Questions touching the Acts made in the Parliament assembled at Westminster the thirteenth day of February one thousand six hundred eighty-eight.

[Omitted for the same reason.]

CHAPTER V.

Rot. Parl. p. 1 nu. 7.

An Act for enabling the Sale of Goods distrained for Rent in case the Rent be not paid in a reasonable time.

WHEREAS the most ordinary and ready way for recovery of arrears of rent is by distresse yet such distresses not being to be sold but onely detained as

pledges for inforceing the payment of such rent the persons distraining have litle benefit thereby. For the remedying whereof bee it enacted and ordained by the King and Queens most excellent Majestyes by and with the advice and consent of the lords spirituall and temporall and commons in this present Parlyament assembled and by authoritie of the same that from and after the first day of June in the yeare of our Lord one thousand six hundred and ninety that where any goods or chattells shall be distrained for any rent reserved and due upon any demise lease or contract whatsoever and the tenant or owner of the goods soe distrained shall not within five dayes [next[1]] after such distresse taken and notice thereof (with the cause of such takeing) left at the chiefe mansion house or other most notorious place on the premisses charged with the rent distrained for replevy the same with sufficient security to be given to the sheriffe according to law that then in such case after such distresse and notice as aforesaid and expiration of the said five dayes the person distraining shall and may with the sheriffe or under sheriffe of the county or with the constable of the hundred parish or place where such distresse shall be taken (who are hereby required to be aiding and assisting therein) cause the goods and chattells soe distrained to be appraized by two sworne appraizers (whome such sheriffe under sheriffe or constable are hereby impowred to sweare) to appraize the same truely according to the best of their understandings and after such appraisment shall and may lawfully sell the goods and chattells soe distrained for the best price can be gotten for the same towards satisfaction of the rent for which the said goods and chattells shall be distrained and of the charges of such distresse appraisment and sale leaveing the overplus (if any) in the hands of the said sheriffe under sheriffe or constable for the owners use.

Goods distrained for rent may be appraised and sold, if not replevied with sufficient security.

And whereas noe sheaves or cocks of corne loose or in the straw or hay in any barne or granary or on any hovell stack or rick can by the law be distrained or otherwise secured for rent whereby landlords are oftentimes cousened and deceived by their tenants who sell their corne graine and hay to strangers and remove the same from the premises chargeable with such rent and thereby avoid the payment of the same. Bee it further enacted by the authoritie aforesaid that for remedying the said practice and deceit it shall and may from and after the said first day of June be lawfull to and for any person or persons haveing rent arreare and due upon any such demise lease or contract as aforesaid to seize and secure any sheaves or cocks of corne or corne loose or in the straw or hay lying or being in any barne or granary or upon any hovell stack or rick or otherwise upon any part of the land or [ground[2]] charged with such rent and to locke up or detaine the same in the place where

II. Sheaves or cocks of corn loose, &c or hay, in any barn, &c. may be detained, and if not replevied, sold.

[1] interlined on the roll. [2] pound O.

the same shall be found for or in the nature of a distresse untill the same shall be replevyed upon such security to be given as aforesaid and in default of replevying the same as aforesaid within the time aforesaid to sell the same after such appraisment thereof to be made soe as neverthelesse such corne graine or hay soe distrained as aforesaid be not removed by the person [or ¹] persons distraineing to the damage of the owner thereof out of the place where the same shall be found and seized but be kept there (as impounded) untill the same shall be replevyed or sold in default of replevying the same within the time aforesaid.

Corn, &c. not to be removed by person distraining, to the damage of owner, from the place where seized.

III. AND bee it further enacted by the authoritie aforesaid that upon any pound-breach or rescous of goods or chattells distrained for rent the person or persons grieved thereby shall in a speciall action upon the case for the wrong thereby sustained recover his and their treble damages and costs of suite against the offender or offenders in any such rescous or pound-breach any or either of them or against the owners of the goods distrained in case the same be afterwards found to have come to his use or possession.

Pound-breach or rescous, treble damages and costs.

IV. PROVIDED alwayes and bee it further enacted that in case any such distresse and sale as aforesaid shall be made by vertue or colour of this present Act for rent pretended to be arreare and due where in truth noe rent is arreare or due to the person or persons distraining or to him or them in whose name or names or right such distresse shall be taken as aforesaid that then the owner of such goods or chattells distrained and sold as aforesaid his executors or administrators shall and may by action of trespasse or upon the case to be brought against the person or persons soe distraining any or either of them his or their executors or administrators recover double of the value of the goods or chattells soe distrained and sold together with full costs of suite.

Wrongful distress, double damages and full costs.

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4 WILLIAM & MARY. A. D. 1692.

CHAPTER XVI.

An Act to prevent Frauds by clandestine Mortgages.

Rot. Parl., p. 4. nu. 2.

WHEREAS great frauds and deceits are too often practised by necessitous and evil disposed persons in borrowing of money and giving judgments statutes and recognizances privately for securing the repayment of the said money and the same persons do afterwards borrow money upon security of their lands of other persons and do not acquaint the latter lender thereof with the same whereby such late lender is very often in danger to lose his whole money or forced to pay of the debts secured by the said judgments statutes and recognizances before they can have any benefitt of the said

Recital that frauds are practised by necessitous persons in borrowing money.

¹ and O,

mortgages. And whereas divers persons do many times mortgage their lands more then once without giving notice of their first mortgage whereby lenders of money vpon second or after mortgages doe often lose their money and are put to great charges in suits and otherwise. For remedy whereof and preventing the same as much as may be for the future be it enacted by the King and Queens most excellent Majesties by and with the advice and consent of the lords spiritual and temporal and the commons in this present Parliament assembled and by the authority of the same that if any person or persons from and after the first day of May which shall be in the yeare of our Lord one thousand six hundred ninety and three shall borrow any money or for any other valuable consideration for the payment thereof voluntarily give acknowledge permitt or suffer to be entred against him or them one or more judgment or judgments statute or statutes recognizance or recognizances to any person or persons, creditor or creditors And if the said borrower or borrowers debter or debters shall afterwards take upp or borrow any other sum or sums of money of any other person or persons or for other valuable consideration become indebted to such person or persons and for secureing the repayment and discharge thereof shall mortgage his her or their lands or tenements or any part thereof to the said second or other lender or lenders of the said money creditor or creditors or to any other person or persons in trust for or to the use of such second or other lender or lenders creditor or creditors and shall not give notice to the said mortgagee or mortgagees of the said judgment or judgments statute or statutes recognizance or recognizances in writing under his her or their hand or hands before the execution of the said mortgage or mortgages unlesse such mortgager or mortgagers his her or their heires vpon notice to him her or them given by the mortgagee or mortgagees of the said lands and tenements his her or their heirs executors administrators or assigns in writing vnder his her or their hands and seals attested by two or more sufficient witnesses of any such former judgment or judgments statute or statutes recognizance or recognizances shall within six months pay of and discharge the said judgment or judgments statute or statutes recognizance or recognizances and all interest and charges due thereupon and cause or procure the same to be vacated or discharged by record that then the mortgager or mortgagers of the said lands and tenements his her or their heires executors administrators or assigns shall have no benefitt or remedy against the said mortgagee or mortgagees his her or their heires executors administrators or assigns or any of them in equity or elsewhere for redemption of the said lands and tenements or any part thereof But the said mortgagee or mortgagees his her or their heirs executors administrators and assigns shall and may hold and enjoy the said lands and tenements for such estate and term therein as were or was

Debtor upon judgment, &c. taking up money of another upon mortgage, without notice of the judgment to the mortgagee, unless upon notice by the mortgagee he pay off the same within six months, shall lose his equity to redeem;

and mortgagee may hold the land against the

said mortgagor for such estate as was granted to him.

granted and settled to the said mortgagee or mortgagees against the said mortgager or mortgagers [and[1]] all person or persons lawfully claiming from by or vnder him her or them freed from equity of redemption and as fully to all intents and purposes whatsoever as if the same had been purchased absolutely and without any power or liberty of redemption.

II. Persons having mortgaged and mortgaging again without notice to the second or other succeeding mortgagee, to lose his equity of redemption.

And be it further enacted by the authority aforesaid that if any person or persons who have or hath once mortgaged or from and after the said first day of May shall mortgage any lands or tenements to any person or persons for security of money lent or otherwise accrued or become due or for other valuable considerations and if the said [mortgager[2]] or [mortgagers[3]] shall again mortgage the same lands or tenements or any part thereof to any other person or persons for valuable considerations (the said former mortgage being in force and not discharged) and shall not discover to the said second or other mortgagee or mortgagees or some or one of them the former mortgage or mortgages in writing under his or their hands that then and in those cases also the said [mortgager[2]] or [mortgagers[3]] his her or their heires executors administrators or assigns shall have no relief or equity of redemption against the said second or after mortgagee or mortgagees his her or their heires executors administrators or assignes upon the said after mortgage or mortgages but that such mortgagee or mortgagees his (*) or their heirs executors administrators and assigns shall and may hold and enjoy such more then once mortgaged lands and tenements for such estate and terme therein as were or was granted and conveyed by the said [mortgager[2]] or [mortgagers[3]] against him her or them his her or their heires executors or administrators respectively freed from equity of redemption and as fully to all intents and purposes as if the same had been [and[5]] absolute purchase and without any power or liberty of redemption.

III. Under-mortgagees may redeem.

Provided always and be it further enacted by the authority aforesaid that neverthelesse if it so happen there be more then one mortgage att the same time made by any person or persons to any person or persons of the same lands and tenements the several late or under mortgagees his her or their heirs executors administrators or assigns shall have power to redeem any former mortgage or mortgages upon payment of the principal debt interest and costs of suit to the prior mortgagee or mortgagees his her or their heires executors administrators or assigns any thing herein contained to the contrary thereof in any wise notwithstanding.

Proviso for dower.

Provided always that nothing in this Act contained shall be construed deemed or extended to bar any widow of any [mortgager[2]] of lands or

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[1] *O.* omits. [2] mortgagor *O.* [3] mortgagors *O.* [4] her *O.* [5] an *O.*]

tenements from her dower and right in or to the said lands who did not legally join with her husband in such mortgage or otherwise lawfully bar or exclude herselfe from such her dower or right.

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9 WILLIAM III. A. D. 1697-8.

CHAPTER XVII.

An Act for the better Payment of Inland Bills of Exchange (a).

Rot. Parl. 9 Gul. III. p. 3, n. 8.

WHEREAS great damages and other inconveniences do frequently happen in the course of trade and commerce by reason of delays of payment and other neglects on inland bills of exchange in this kingdome. Be it therefore enacted by the Kings most excellent Majesty by and with the advice and consent of the lords spiritual and temporal and the commons in this present Parliament assembled and by the authority of the same that from and after the foure and twentieth day of June next which shall be in the yeare one thousand six hundred ninety eight all and every bill or bills of exchange drawne in or dated att and from any traling citty or towne or any other place in the kingdome of England dominion of Wales or towne of Berwick upon Tweed of the summ of five pounds sterling or upwards upon any person or persons of or in London or any other trading city towne or any other place (in which said bill or bills of exchange shall be acknowledged and expressed the said value to be received) and is and shall be drawne payable att a certaine number of days weeks or months after date thereof that from and after presentation and acceptance of the said bill or bills of exchange (which acceptance shall be by the under writing the same under the parties hand so accepting) and after the expiration of three days after the said bill or bills shall become due the party to whom the said bill or bills are made payable his servant agent or assignes may and shall cause the said bill or bills to be protested by a notary publick and in default of such notary publick by any other substantial person of the city towne or place in the presence of two or more credible witnesses refusal or neglect being first made of due payment of the same which protest shall be made and written under a faire written coppy of the said bill of exchange in the words or forme following.

Inland bills of exchange for £5 and upwards, on non-payment, as herein mentioned, may be protested.

Know all men that I A. B. on the day of att the usuall place of abode of the said have demanded payment of the bill of the which the above is the coppy which the said did not pay wherefore I the said doe hereby protest the said bill.

Form of protest.

(a) This statute is in its terms confined to England. But there seems no other ground for the power in India of the holder of an inland Bill to protest it for non-payment. See Acts VI of 1840 and V of 1866, secs. 11—14. As to the limitation-law affecting suits on Bills, see Act IX of 1871, schedule II, Nos 68—71.

Dated[1] this day of

Notice of protest to party from whom bill received, who is to repay the same with interest and charges. Persons neglecting to make protest liable to interest and costs.

Which protest so made as aforesaid shall within fourteene days after making thereof be sent or otherwise due notice shall be given [thereof[2]] to the party from whom the said bill or bills were received who is upon producing such protest to repay the said bill or bills together with all interest and charges from the day such bill or bills were protested for which protest shall be paid a summ not exceeding the sum of six pence And in default or neglect of such protest made and sent or due notice given within the days before limitted the person so failing or neglecting thereof is and shall be liable to all costs damages and interest which do and shall accrue thereby.

II. Proviso that where bill lost, drawer to give another of same tenor, on being indemnified.

Provided nevertheless that in case any such inland bill or bills of exchange shall happen to be lost or miscarried within the time before limitted for payment of the same then the drawer of the said bill or bills is and shall be oblidged to give an other bill or bills of the same tenour with those first given the person or persons to whom they are and shall be so delivered giving security if demanded to the said drawer to indemnifie him against all persons whatsoever in case the said bill or bills of exchange so alleadged to be lost or miscarried shall be found againe.

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10 WILLIAM III. A. D. 1698.

Chapter XXII[3].

Rot. Parl. 10 Gul. III, p. 4. n. 7.

An Act to enable Posthumus Children to take Estates as if borne in their Fathers Life time.

Reasons for passing this Act.

Whereas it often happens that by marriage and other settlements estates are limited in remainder to the use of the sons and daughters the issue of such marriage with remainders over without limiting an estate to trustees to preserve the contingent remainders limited to such sons and daughters by which meanes such sons and daughters if they happen to be borne after the decease of their father are in dangor to be defeated of their remainder by the next in remainder after them and left unprovided for by such settlements contrary to the intent of the parties that made those settlements Be it enacted by the Kings Most Excellent Majesty by and with the advice and consent of the lords spirituall and temporall and commons in this present Parliament assembled and by the authority of the same that where any estate already is or shall hereafter by any marriage or other settlement be limited in remainder to or to the use of the first or other son or sons of the

[1] at O.
[2] interlined on the roll.
[3] This is Cap XVI in the common printed editions

body of any person lawfully begotten with any remainder or remainders over to or to the use of any other person or persons or in remainder to or to the use of a daughter or daughters lawfully begotten with any remainder or remainders to any other person or persons that any son or sons or daughter or daughters of such person or persons lawfully begotten or to be begotten that shall be borne after the decease of his her or their father shall and may by virtue of such settlement take such estate so limited to the first and other sons or to the daughter or daughters in the same manner as if borne in the life time of his her or their father although there shall happen no estate to be limited to trustees after the decease of the father to preserve the contingent remainder to such after-borne son or sons daughter or daughters untill he she or they come in esse or are borne to take the same any law or usage to the contrary in any wise notwithstanding.

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11 WILLIAM III. A. D. 1698-99.

CHAPTER VII.

An Act for the more effectuall Suppression of Piracy[1].

Rot. Parl. 11 Gul. III. p. 2. n. 5.

Recital of Stat. 28 Hen. VIII, c. 15, §. 1.

WHEREAS by an Act of Parliament made in the twenty-eighth yeare of the reigne of King Henry the Eighth it is enacted that treasons felonies robberies murthers and confederacies committed on the sea shall be enquired of tryed and determined according to the common course of the laws of this land used for such offences upon the land within this realme whereupon the triall of those offenders before the admirall or his lieutenant or his commissary hath beene altogether disused. And whereas that since the making of the said Act and especially of late yeares it hath beene found by experience that persons committing piracies robberies and felonies on the seas in or neare the East and West Indies and in places very remote cannot be brought to condign punishment without great trouble and charges in sending them into England to be tryed within the realme as the said Statute directs insomuch that many idle and profligate persons have beene thereby encouraged to turne pirates and betake themselves to that sort of wicked life trusting that they shall not or at least cannot easily be questioned for such their piracies and robberies by reason of the great trouble and expence that will necessarily fall upon such as shall attempt to apprehend and prosecute them for the same. And whereas the numbers of them are of late very much increased and their

Reasons for passing this Act.

[1] Rep. as to so much as relates to the punishment of the crime of piracy or of any offence declared to be piracy, or of accessaries thereto respectively, 7 Will. 4 & 1 Vict., c. 88, s. 1.]

insolencies soe great that unlesse some speedy remedy be provided to suppresse them by a strict and more easie way for putting the ancient laws in that behalfe in execution the trade and navigation into remote parts will very much suffer thereby .....

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VII. Natural-born subjects committing acts as herein mentioned, deemed, and upon conviction, to suffer according to Stat. 28 Hen. VIII, c. 15.

AND be it further enacted by the authority aforesaid that if any of his Majesties naturall borne subjects or denizens of this kingdome shall committ any piracy or robbery or any act of hostility against other his Majesties subjects upon the sea under colour of any commission from any forreigne prince or state or pretence of authority from any person whatsoever such offender and offenders and every of them shall be deemed adjudged and taken to be pirates felons and robbers and they and every of them being duely convicted thereof according to this Act or the aforesaid Statute of King Henry the Eighth shall have and suffer such pains of death losse of lands goods and chattells as pirates felons and robbers upon the seas ought to have and suffer.

VIII. Commanders of ships, &c., turning pirate, &c., or attempting to corrupt other commanders, &c.,

AND be it further enacted that if any commander or master of any shipp or any seaman or marriner shall in any place where the admirall hath jurisdiction betray his trust and turne pirate enemy or rebell and piratically and feloniously run away with his or their shipp or shipps or any barge boate ordnance ammunition goods or merchandizes or yield them up voluntarily to any pirate or shall bring any seduceing messages from any pirate enemy or rebell or consult combine or confederate with or attempt or endeavour to corrupt any commander master officer or marriner to yield up or run away with any shipp goods or merchandizes or turne pirate or goe over to pirates or if any person shall lay violent hands on his commander whereby to hinder him from fighting in defence of his shipp and goods committed to his trust or that shall confine his master or make or endeavour to make a revolt in the shipp shall be adjudged deemed and taken to be a pirate felon and robber and being convicted thereof according to the directions of this Act shall have and suffer pains of death losses of lands goods and chattells as pirates felons and robbers upon the seas ought to have and suffer.

to suffer as pirates.

IX.

AND whereas severall evill disposed persons in the plantations and elsewhere have contributed very much towards the encrease and encouragement of pirates by setting them forth and by aiding abetting receiveing and concealeing them and their goods and there being some defects in the laws for bringing such evill-disposed persons to condigne punishment be it enacted by the authority aforesaid that all and every person and persons whatsoever who after the twenty-ninth day of September in the yeare of our Lord one thousand seaven hundred shall either on the land or upon the seas wittingly or knowingly sett forth any pirate or aid and assist or maintaine procure command counsell or advise any person or persons whatsoever to doe or committ any piracies or

Persons aiding pirates, &c., who shall thereupon act,

robberies upon the seas and such person [and[1]] persons shall thereupon doe or committ any such piracy or robbery then all and every such person or persons whatsoever soe as aforesaid setting forth any pirate or aiding assisting maintaining procuring commanding counselling or adviseing the same either on the land or upon the sea shall be and are hereby declared and shall be deemed and adjudged to be accessary to such piracy and robbery done and committed.

adjudged accessaries.

X.

And further that after any piracy or robbery is or shall be committed by any pirate or robber whatsoever every person and persons who knowing that such pirate or robber has done or committed such piracy and robbery shall on the land or upon the sea receive entertaine or conceale any such pirate or robber or receive or take into his custody any shipp vessell goods or chattells which have been by any such pirate or robber piratically and feloniously taken shall be and are hereby likewise declared deemed and adjudged to be accessary to such piracy and robbery. And that after the said nine and twentieth day of September all such accessaries to such piracies and robberies shall and may be enquired of tried heard determined and adjudged after the common course of the laws of this land according to the said Statute made in the twenty-eighth yeare of King Henry the Eighth as the principalls of such piracies and robberies may and ought to be and no otherwise and being thereupon attainted shall suffer such pains of death losses of lands goods and chattells and in like manner as the principalls of such piracies robberies and felonies ought to suffer according to the said Statute of King Henry the Eighth which is hereby declared to be and continue in full force anything in this present Act contained to the contrary notwithstanding.

Persons concealing pirates, &c., or vessels, &c. taken by such, adjudged accessaries.

Accessaries tried, and to suffer as principals, under Stat. 28 Hen VIII, c. 15.

The said Statute in force.

XI

And forasmuch as it will alsoe conduce to the suppressing of robberies on the sea if due encouragement be given and rewards allowed to such commanders masters and other officers seamen and mariners as shall either bravely defend their owne shipps or take seize and destroy pirates sea-rovers and enemies Be it further enacted by the authority aforesaid that when any English shipp shall have been defended against any pirates enemies or sea-rovers by fight and brought to her designed port in which fight any of the officers or seamen shall have been killed or wounded it shall and may be lawfull to and for the Judge of his Majesties High Court of Admiralty or his surrogate in the port of London or the mayor bailiffe or chief officer in the severall outports of this kingdome upon the petition of the master or seamen of such shipp soe defended as aforesaid to call unto him four or more good and substantiall merchants and such as are no adventurers or owners of the shipp or goods soe defended and have no manner of interest therein and by advice with them to raise and levy upon the respective adventurers and owners of the shipp and goods soe defended by processe out of the said court such summe or summs of money as himselfe and the

When officers and seamen killed or wounded in defending ship which shall be brought to port, judge of the Admiralty, &c. may levy £2 per cent. upon the owners, &c. for benefit of such officers and seamen, or their widows and children, as herein mentioned.

[1] or O.

said merchants by plurality of voices shall determine and judge reasonable not exceeding two pounds per cent. of the freight and of the shipp and goods soe defended according to the first costs of the goods which summe or summs of money soe raised shall be distributed among the captaine master officers and seamen of the said shipp or widows and children of the slaine according to the direction of the Judge of the said court or his surrogate in the port of London or the mayor bayliffe or chiefe officer in the severall outports of this kingdom with the approbation of the merchants aforesaid who shall proportion the same according to their best judgment unto the shipps company as aforesaid having speciall regard unto the widows and children of such as shall have beene slaine in that service and such as have beene wounded or maimed.

XII. Rewards to informers of conspiracy to destroy or run away with ship.

And for the better and more effectuall prevention of combinations and confederacies for the running away with or destroying of any shipp goods or merchandizes be it further enacted by the authority aforesaid that a reward of tenne pounds for every shipp or vessell of one hundred tons or under and fifteene pounds for every shipp or vessell of a greater burden shall be paid by the captaine commander or master of every shipp or vessell wherein any such combination or confederacy shall be sett on foot for the running away with or destroying any such shipp or the goods and merchandizes therein laden to such person as shall first make a discovery thereof upon due proofe of such combination or confederacy the same to be paid att the port where the wages of the seamen of the said shipp are or ought to be paid after such discovery and proofe made.

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XIV.—[*Omitted as inapplicable to India.*]

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XVI.— *Ditto ditto.*

XVII. Seamen, &c., deserting,

And for the prevention of seamen deserting of merchant shipps abroad in parts beyond the seas which is the chiefe occasion of their turning pirates and of great detriment to trade and navigation in generall, be it enacted by the authority aforesaid that all such seamen officers or saylors who shall desert the shipps or vessells wherein they are hired to serve for that voyage shall for such offence forfeite all such wages as shall be then due to him or them.

penalty.

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11 WILLIAM III. A. D. 1698-99.

Chapter XII.

An Act to punish Governors of Plantations in this Kingdom for Crimes by them committed in the Plantations.

Rot. Parl. 11 Gul. III. p. 3, nu. 3.

Reasons for passing this Act.

Whereas a due punishment is not provided for severall crimes and offences committed out of this his Majesties realme of England whereof divers governors

lieutenant governors deputy governors or commanders-in-chiefe of plantations and colonies within his Majesties dominions beyond the seas have taken advantage and have not been deterred from oppressing his Majesties subjects within their respective governments and commands nor from committing severall other great crimes and offences not deeming themselves punishable for the same here nor accountable for such their crimes and offences to any person within their respective governments and commands For remedy whereof be it enacted by the Kings most excellent Majesty by and with the advice and consent of the lords spirituall and temporall and commons in Parliament assembled and by the authority of the same that if any governor lieutenant-governor deputy governor or commander-in-chiefe of any plantation or colony within his Majesties dominions beyond the seas shall after the first day of August one thousand seaven hundred be guilty of oppressing any of his Majesties subjects beyond the seas within their respective governments or commands or shall be guilty of any other crime or offence contrary to the laws of this realme or in force within their respective governments or commands such oppressions crimes and offences shall be enquired of heard and determined in his Majesties Court of Kings Bench here in England or before such commissioners and in such county of this realme as shall be assigned by his Majesties commission and by good and lawfull men of the same county and that such punishments shall be inflicted on such offenders as are usually inflicted for offences of like nature committed here in England.

How and where oppressions by Governors, &c. of plantations abroad tried.

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12 & 13 WILLIAM III. A. D. 1700 & 1701.

Chapter II.

An Act for the further limitation of the Crown and better securing the Rights and Liberties of the subject.

[Omitted as not practically useful in India.]

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1 ANNE. A. D. 1702.

Chapter II.

An Act for explaining a Clause in an Act made at the Parliament begun and holden at Westminster the Two and twentieth of November in the Seventh Year of the Reign of our Sovereign Lord King William the Third intituled An Act for the better Security of His Majesties Royal Person and Government.

Rot. Parl. 1 Ann. p. 2, n. 2.

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IV. The like enactment as to writs and

And be it further enacted that no writ plea or process or any other proceeding upon any indictment or information for any offence or misdemeanor or any writ process or proceeding for any debt or account that shall be due

proceedings in time to come.

or to be made to her Majesty her heirs or successors for or concerning any lands tenements or other revenue that shall belong to her or them that shall be depending at the time of her Majesties demise (whom God long preserve) or of any of her heirs or successors shall be discontinued or put without day by reason of her or any of their deaths or demises but shall continue and remain in full force and virtue to be proceeded upon notwithstanding any such death or demise.

V. No commission of association or writ herein mentioned determined by demise of the crown.

(1)And be it further enacted by the authority aforesaid ..... Nor hereafter by the demise of her present Majesty or any King or Queen of this realm shall any commission of assize oyer and terminer general gaol delivery or of association writ of admittance writ of si non omnes writ of assistance or commission of the peace be determined but every such commission and writ shall be and continue in full force and vertue for the space of six months next ensuing notwithstanding any such demise unless superseded and determined by her Majesty her heirs or successors and also no original writ writ of nisi prius commission process or proceedings whatsoever in or issuing out of any court of equity nor any process or proceeding upon any office or inquisition nor any writ of certiorari or habeas corpus in any matter or cause either criminal or civil nor any writ of attachment or processe for contempt nor any commission of delegacy or review for any matters ecclesiastical testamentary or maritime or any process thereupon shall be determined abated or discontinued by the demise of her Majesty or any King or Queen of this realm but [illegible] commission process and proceeding shall remain in full force [illegible] eded upon as if her Majesty or such other King or Queen [illegible] ing any such death or demise.

The like enactment as to original and other writs and proceedings hereinmentioned.

[illegible] nacted that all and singular the provisions matters clauses [illegible] r contained in this Act ..... shall

Ire... [illegible] ed to extend to the kingdom of Ireland to the islands of

Jers... [illegible] ernsey and to all her Majesties dominions in America and elsewhere.

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3 & 4 ANNE. A. D. 1704.

Chapter VIII (2).

Rot. Parl. 3 & 4 Anne, p. 3, n. 3.

An Act for giving like Remedy upon Promissory Notes as is now used upon Bills of Exchange and for the better Payment of Inland Bills of Exchange(a).

Reasons for passing this Act.

Whereas it hath been held that notes in writing signed by the party who makes the same whereby such party promises to pay unto any other person or

1 The following clauses are annexed to the original Act in separate schedules.

2 This is chapter IX in the common printed editions.

(a) As promissory notes are not within the custom of merchants, they are not transferable at common-law. Their transferability in India seems to depend on this statute, which is not expressly confined to England.

his order any sum of money therein mentioned are not assignable or indorsible over within the custom of merchants to any other person and that such person to whom the sum of money mentioned in such note is payable cannot maintain an action by the custom of merchants against the person who first made and signed the same and that any person to whom such note should be assigned indorsed or made payable could not within the said custom of merchants maintain any action upon such note against the person who first drew [and signed[1]] the same Therefore to the intent to encourage trade and commerce which will be much advanced if such notes shall have the same effect as inland bills of exchange and shall be negotiated in like manner be it enacted by the Queens most excellent Majesty by and with the advice and consent of the lords spiritual and temporal and commons in this present Parliament assembled and by the authority of the same that all notes in writing that after the first day of May in the year of our Lord one thousand seven hundred and five shall be made and signed by any person or persons body politick or corporate or by the servant or agent of any corporation banker goldsmith merchant or trader who is usually intrusted by him her or them to sign such promissory notes for him her or them whereby such person or persons body politick or corporate his her or their servant or agent as aforesaid doth or shall promise to pay to any other person or persons body politick and corporate his her or their order or unto bearer any sum of money mentioned in such note shall be taken and construed to be by vertue thereof due and payable to any such person or persons body politick and corporate to whom the same is made payable and also every such note payable to any person or persons body politick and corporate his her or their order shall be assignable or indorsible over in the same manner as inland bills of exchange are or may be according to the custom of merchants.

Promissory notes to be signed,

and indorsible.

II. And that the person or persons body politick and corporate to whom such sum of money is or shall be by such note made payable shall and may maintain an action for the same in such manner as he she or they might do upon any inland bill of exchange made or drawn according to the custom of merchants against the person or persons body politick and corporate who or whose servant or agent as aforesaid signed the same.

Payee may maintain action.

III. And that any person or persons body politick and corporate to whom such note that is payable to any person or persons body politick and corporate his her or their order is indorsed or assigned or the money therein mentioned ordered to be paid by indorsement thereon shall and may maintain his her or their action for such sum of money either against the person or persons

The like provision as to indorsee.

[1] interlined on the roll.

body politick and corporate who or whose servant or agent as aforesaid signed such note or against any of the persons that indorsed the same in like manner as in cases of inland bills of exchange and in every such action the plaintiff or plaintiffs shall recover his her or their damages and costs of suit. And if such plaintiff or plaintiffs shall be nonsuited or a verdict be given against him her or them the defendant or defendants shall recover his her or their costs against the plaintiff or plaintiffs and every such plaintiff or plaintiffs defendant or defendants respectively recovering may sue out execution for such damages and costs by capias fieri facias or elegit.

Damages and costs in such actions.

[*Sec. IV—as to limitation of actions—is omitted as inapplicable to India.*]

V. Notes not to be issued otherwise than as heretofore.

Provided that no body politick or corporate shall have power by vertue of this Act to issue or give out any notes by themselves or their servants other than such as they might have issued if this Act had never been made.

VI. Recital of Stat. 9 W. III. c. 17, § 1.

And whereas by an Act of Parliament made in the ninth year of the reign of his late Majesty King William the Third intituled An Act for the better payment of inland bills of exchange it is among other things enacted that from and after presentation and acceptance of the said bill or bills of exchange (which acceptance shall be by the underwriting the same under the parties hand so accepting) and after the expiration of three days after the said bill or bills shall become due the party to whom the said bill or bills are made payable his servant agent or assigns may and shall cause the same bill or bills to be protested in manner as in the said Act is enacted And whereas by there being no provision made therein for protesting such bill or bills in case the party on whom the same are or shall be drawn refuse to accept the same by underwriting the same under his hand all merchants and others do refuse to underwrite such bill or bills or make any other than a promissory acceptance by which means the effect and good intent of the said Act in that behalf is wholly evaded and no bill or bills can be protested before or for want of such acceptance by underwriting the same as aforesaid For remedy whereof be it enacted by the authority aforesaid that from and after the first day of May which shall be in the year of our Lord one thousand seven hundred and five in case upon presenting of any such bill or bills of exchange the party or parties on whom the same shall be drawn shall refuse to accept the same by underwriting the same as aforesaid the party to whom the said bill or bills are made payable his servant agent or assigns may and shall cause the said bill or bills to be protested for non-acceptance as in case of foreign bills of exchange any thing in the said Act or any

Reasons for passing this enactment.

Protest of bills, &c. for non-acceptance may be made as in case of foreign bills of exchange.

other law to the contrary notwithstanding for which protest there shall be paid two shillings and no more.

VII. No acceptance to charge except in writing; nor drawer liable to costs, &c. unless protest made and notice given.

[1] PROVIDED always that from and after the said first day of May no acceptance of any such inland bill of exchange shall be sufficient to charge any person whatsoever unless the same be underwritten or indorsed in writing thereupon and if such bill be not accepted by such underwriting or indorsment in writing no drawer of any such inland bill shall be liable to pay any costs damages or interest thereupon unless such protest be made for non-acceptance thereof and within fourteen days after such protest the same be sent or otherwise notice thereof be given to the party from whom such bill was received or left in writing at the place of his or her usual abode.

VIII. But drawer liable if one protest made and notice given thereof.

AND if such bill be accepted and not paid before the expiration of three days after the said [bill[2]] shall become due and payable then no drawer of such bill shall be compellable to pay any costs damages or interest thereupon unless a protest be made and sent or notice thereof be given in manner and form abovementioned Nevertheless every drawer of such bill shall be liable to make payment of costs damages and interest upon such inland bill if any one protest be made for non-acceptance or non-payment thereof and notice thereof be sent given or left as aforesaid.

IX. In what cases protest not necessary.

By whom protests to be made.

PROVIDED that no such protest shall be necessary either for non-acceptance or non-payment of any inland bill of exchange unless the value be acknowledged and expressed in such bill to be received and unless such bill be drawn for the payment of twenty pounds sterling or upwards and that the protest hereby required for non-acceptance shall be made by such persons as are appointed by the said recited Act to protest inland bills of exchange for non-payment thereof.

X. Bill of exchange received for a debt, accounted good payment though not paid, if not proceeded upon.

AND be it further enacted that from and after the said first day of May if any person doth accept any such bill of exchange for and in satisfaction of any former debt or sum of money formerly due unto him the same shall be accounted and esteemed a full and complete payment of such debt if such person accepting of any such bill for his debt doth not take his due course to obtain payment thereof by endeavouring to get the same accepted and paid and make his protest as aforesaid either for non-acceptance or non-payment thereof.

XI. Proviso for remedy against drawer, &c.

PROVIDED that nothing herein contained shall extend to discharge any remedy that any person may have against the drawer accepter or indorser of such bill.

* * * * * * *

[1] the following clauses are annexed to the original Act in four separate schedules.
[2] interlined on the roll.

4 & 5 ANNE. A. D. 1705.

Chapter III. (1)

Rot. Parl., p. 2. n. 2.

An Act for the Amendment of the Law and the better Advancement of Justice.

* * * * * * *

IX. Attornment of tenant in what cases not necessary.

And be it further enacted by the authority aforesaid that from and after the said first day of Trinity term all grants or conveyances thereafter to be made by fine or otherwise of any manors or rents or of the reversion or remainder of any messuages or lands shall be good and effectual to all intents and purposes without any attornment of the tenants of any such manors or of the land out of which such rent shall be issueing or of the particular tenants upon whose particular estates any such reversions or remainders shall and may be expectant or depending as if their attornment had been had and made.

X. Proviso for payment of rent.

Provided nevertheless that no such tenant shall be prejudiced or damaged by payment of any rent to any such grantor or conusor or by breach of any condition for non-payment of rent before notice shall be given to him of such grant by the conusee or grantee.

* * * * * * *

XXI. Warranties by tenant for life and collateral warranties by ancestor having no estate in possession, void as against reversioner and heir.

And be it further enacted by the authority aforesaid that all warranties which shall be made after the said first day of Trinity term by any tenant for life of any lands tenements or hereditaments the same descending or coming to any person in reversion or remainder shall be void and of none effect and likewise all collateral warranties which shall be made after the said first day of Trinity term of any lands tenements or hereditaments by any ancestor who has no estate of inheritance in possession in the same shall be void against his heir.

* * * * * * *

XXVII. Proviso for actions of account by and between joint tenants as bailiffs, &c.

[2 And be it enacted by the authority aforesaid that from and after the said first day of Trinity term actions of account shall and may be brought and maintained against the executors and administrators of every guardian bailiff and receiver and also by one joynt tenant and tenant in common his executors and administrators against the other as bailiff for receiving more than comes to his just share or proportion and against the executor and administrator of such joynt tenant or tenant in common and the auditors appointed by the court where such action shall be depending shall be and are hereby impowered to administer an oath and examine the parties touching the matters in question and for their pains and trouble in auditing and taking such account have such allowance as the court shall adjudge to be reasonable to be paid by the party on whose side the balance of the account shall appear to be.]

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[1] This is chapter XVI. in the common printed editions.

[2] annexed to the original Act in a separate schedule.

4 & 5 ANNE. A. D. 1705.

Chapter XVI.

An Act for the Naturalization of the most Excellent Princess Sophia Electress and Dutchess Dowager of Hanover and the Issue of her Body.

[Omitted as not practically useful in India.]

6 ANNE. A. D. 1707.

Chapter XLI. (1).

An Act for the Security of Her Majesties Person and Government and of the Succession to the Crown of Great Britain in the Protestant Line.

Rot. Parl. 6 Ann. p. 5. n. 6.

* * * * * * *

VIII. Privy council not determined by death of Sovereign, nor the offices herein mentioned.

And be it further enacted by the authority aforesaid that the privy council of her Majesty her heirs or successors for the kingdom of Great Britain shall not be determined or dissolved by the death or demise of her Majesty her heirs or successors but such privy council shall continue and act as such by the space of six months next after such demise unless sooner determined by the next successor to whom the imperial crown of this realm is limited and appointed to go remain and descend nor shall the office or place of lord chancellor or lord keeper of the great seal of Great Britain or of lord high treasurer of Great Britain lord president of the council for Great Britain lord privy seal of Great Britain lord high admiral of Great Britain or of any of the great officers of the Queen or King's houshold for the time being nor shall any office place or imployment civil or military within the kingdoms of Great Britain or Ireland dominion of Wales town of Berwick upon Tweed isles of Jersey Guernsey Alderney and Sarke or any of her Majesties plantations become void by reason of the demise or death of her present Majesty her heirs or successors Queens or Kings of this realm but the said lord chancellor or lord keeper of the great seal of Great Britain the lord high treasurer of Great Britain the lord president of the council the lord privy seal the lord high admiral of Great Britain the great officers of the houshold and every other person and persons in any of the offices places and imployments aforesaid shall continue in their respective offices places and imployments for the space of six months next after such death or demise unless sooner removed and discharged by the next in succession as aforesaid.

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[1] This is chapter VII. 6 Ann. in the common printed editions.

Chapter LXXII[1].

Rot. Parl. 6 Ann. p. 7, n. 8.

An Act for the more effectual Discovery of the Death of Persons pretended to be alive to the Prejudice of those who claim Estates after their Deaths.

Reasons for passing this Act.

Whereas divers persons as guardians and trustees for infants and husbands in right of their wives and other persons having estates or interests determinable upon a life or lives have continued to receive the rents and profits of such lands after the determination of their said particular estates or interests And whereas the proof of the death of the persons on whose lives such particular estates or interests depended is very difficult and several persons have been and may be thereby defrauded For remedy whereof and for preventing such fraudulent practices be it enacted by the Queens most excellent Majesty by and with the advice and consent of the lords spiritual and temporal and commons in this present Parliament assembled and by the authority of the same that any person or persons who hath or shall have any claim or demand in or to any remainder reversion or expectancy in or to any estate after the death of any person within age married woman or any other person whatsoever upon affidavit made in the High Court of Chancery by the persons so claiming such estate of his or her title and that he or she hath cause to believe that such minor married woman or other person is dead and that his or her death is concealed by such guardian trustee husband or any other person shall and may once a year if the person aggrieved shall think fit move the lord chancellor keeper or commissioners for the custody of the great seal of Great Britain for the time being to order [and they are hereby authorized and required to order[2]] such guardian trustee husband or other person concealing or suspected to conceal such person at such time and place as the said court shall direct on personal or other due service of such order to produce and shew to such person and persons (not exceeding two) as shall in such order be named by the party or parties prosecuting such order such minor married women or other persons aforesaid And if such guardian trustee husband or such other person as aforesaid shall refuse or neglect to produce or shew such infant married woman or such other person on whose life any such estate doth depend according to the directions of the said order that then the Court of Chancery is hereby authorized and required to order such guardian trustee husband or other person to produce such minor married woman or other person concealed in the said Court of Chancery or otherwise before commissioners to be appointed by the said court at such time and place as the court shall direct two of which commissioners shall be nominated by the party or parties prosecuting such order at his her or their costs and charges [And in case such guardian trustee husband or other

Reversions, &c. expectant upon determination of life estate, upon affidavit of belief of death of infant or other tenant for life as hereinmentioned, and that such death is concealed by guardian, &c, may yearly move for and obtain an order in Chancery for the production of such tenant for life;

and upon refusal, &c., to

[1] This is chapter XVIII. 6 Ann. in the common printed editions

[2] Interlined on the roll.

person[1]] shall refuse or neglect to produce such infant married woman or other person so concealed in the Court of Chancery or before such commissioners whereof return shall be made by such commissioners and that return filed in the petty bag office in either or any of the said cases the said minor married woman or such other person so concealed shall be taken to be dead and it shall be lawful for any person claiming any right title or interest in remainder or reversion or otherwise after the death of such infant married woman or such other persons so concealed as aforesaid to enter upon such lands tenements and hereditaments as if such infant married woman or other person so concealed were actually dead.

produce such tenant for life, taken to be dead.

II. If such infant, &c. tenant for life, appear to be in some place beyond sea, party prosecuting such order may send over to view such infant, and if guardian, &c. will not produce such tenant for life, then he or she to be taken as dead.

And be it further enacted by the authority aforesaid that if it shall appear to the said court by affidavit that such minor married woman or other person for such (*a*) life such estate is holden is or lately was at some certain place beyond the seas in the said affidavit to be mentioned it shall and may be lawful for the party or parties prosecuting such order as aforesaid at his her or their costs and charges to send over one or both the said persons appointed by the said order to view such minor married woman or other person for whose life any such estate is holden and in case such guardian trustee husband or other person concealing or suspected to conceal such persons as aforesaid shall refuse or neglect to produce or procure to be produced to such person or persons a personal view of such infant married woman or other person for whose life any such estate is holden that then and in such case such person or persons are hereby required to make a true return of such refusal or neglect to the Court of Chancery which return shall be filed in the petty bag office and thereupon such minor married woman or other person for whose life any such estate is holden shall be taken to be dead and it shall be lawful for any person claiming any right title or interest in remainder reversion or otherwise after the death of such infant married woman or other person for whose life any such estate is holden to enter upon such lands tenements and hereditaments as if such infant married woman or other person for whose life any such estate is holden were actually dead.

III. If it appear afterwards in any action to be brought that such tenant for life was alive at the time of the order made, then he or she may

Provided always that if it shall afterwards appear upon proof in any action to be brought that such infant married woman or other person for whose life any such estate is holden were alive at the time of such order made that then it shall be lawful for such infant married woman guardian or trustee or other person having any estate or interest determinable upon such life to reenter upon the said lands tenements or hereditaments and for such infant married woman or other person having any estate or interest determinable

[1] Interlined on the roll.
(*a*) leg. 'whose.'

re-enter, and have action for rent, &c.

upon such life their executors administrators or assigns to maintain an action against those who since the said order received the profits of such lands tenements or hereditaments or their executors or administrators and therein to recover full damages for the profits of the same received from the time that such infant married woman or other person having any estate or interest determinable upon such life were ousted of the possession of such lands tenements or hereditaments.

IV. Proviso for guardian, &c. who shall make it appear that due endeavour has been used to procure the appearance of such infant and tenant for life.

[1] PROVIDED always that if any such guardian trustee husband or other person or persons holding or having any estate or interest determinable upon the life or lives of any other person or persons shall by affidavit or otherwise to the satisfaction of the said Court of Chancery make appear that he she or they have used his her or their utmost endeavours to procure such infant married woman or other person or persons on whose life or lives such estate or interest doth depend to appear in the said Court of Chancery or elsewhere according to the order of the said court in that behalf made and that he she or they cannot procure or compel such infant married woman or other person or persons so to appear and that such infant married woman or other person or persons on whose life or lives such estate or interest doth depend is are or were living at the time of such return made and filed as aforesaid then it shall be lawful for such person or persons to continue in the possession of such estate and receive the rents and profits thereof for and during the infancy of such infant and the life or lives of such married woman or other person or persons on whose life or lives such estate or interest doth or shall depend as fully as he she or they might have done if this Act had not been made.

V. Guardians, trustees, &c. holding over without consent of remainderman, &c. deemed trespassers.

AND be it further enacted by the authority aforesaid that every person who as guardian or trustee for any infant and every husband seised in right of his wife only and every other person having any estate determinable upon any life or lives who after the determination of such particular estates or interests without the express consent of him her or them who are or shall be next and immediately entitled upon and after the determination of such particular estates or interests shall hold over and continue in possession of any manors messuages lands tenements or hereditaments shall be and are hereby adjudged to be trespassers and that every person and persons his her and their executors and administrators who are or shall be entitled to any such manors messuages lands tenements and hereditaments upon or after the determination of such particular estates or interests shall and may recover in damages against every such person or persons so holding over as aforesaid and against his her or their executors or administrators the full value of the profits received during such wrongful possession as aforesaid.

Damages

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[1] Annexed to the original Act in two separate schedules.

7 ANNE. A. D. 1708.

Chapter V.

An Act for naturalizing Foreign Protestants.

Rot. Parl. 7 Ann, p. 2, n. 4.

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III. Children of natural-born subjects, born out of England, deemed natural-born subjects.

And be it further enacted by the authority aforesaid that the children of all natural-born subjects born out of the ligeance of her Majesty her heires and successors shall be deemed adjudged and taken to be natural-born subjects of this kingdom to all intents constructions and purposes whatsoever.

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3 GEORGE I. A. D. 1716-7.

Chapter XV.

An Act for the better regulating the Office of Sheriffs, and for ascertaining their Fees, and the Fees for suing out their Patents and passing their Accompts.

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Sheriff dying before his office is expired, his under-sheriff shall execute the same in the deceased sheriff's name, till a new sheriff sworn, and be answerable for the execution thereof as the deceased should have been; and the security given by the under-sheriff is to continue.

[VIII.] And whereas great inconveniences have arisen by the death of sheriffs, during the time of their sheriffalty: Be it enacted by the authority aforesaid, that if any high-sheriff of any county of England or Wales shall happen to die before the expiration or determination of his year, or before he be lawfully superseded, in such case the under-sheriff or deputy-sheriff, by him appointed, shall nevertheless continue in his office, and shall execute the same, and all things belonging thereunto, in the name of the said deceased sheriff, until another sheriff be appointed for the said county, and sworn, in manner as is hereinafter directed; and the said under-sheriff or deputy-sheriff shall be answerable for the execution of the said office in all things, and to all respects, intents, and purposes whatsoever, during such interval as the high-sheriff so deceased would by law have been if he had been living; and the security given to the high-sheriff so deceased by the said under-sheriff, and his pledges, shall stand, remain, and be a security to the King, his heirs and successors, and to all persons whatsoever, for such under-sheriff's due performance of his office during such interval.

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8 GEORGE I. A. D. 1721-22.

Chapter XXIV.

An Act for the more effectual suppressing of Piracy[1].

Whereas the number of persons committing piracies, felonies, and robberies upon the seas is of late very much increased, and notwithstanding the laws already made and now in being, many idle and profligate persons have turned pirates, and betaken themselves to that wicked course of life, whereby the trade and navigation into remote parts will greatly suffer unless some further provision be speedily made for bringing such persons and all others who shall be any ways aiding and assisting, or in confederacy with them, to condign punishment: Be it therefore declared and enacted by the Kings most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that if any commander or master of any ship or vessel, or any other person or persons, shall from and after the twenty-fifth day of March, which shall be in the year of our Lord one thousand seven hundred and twenty-two, any wise trade with any pirate, by truck, barter, exchange, or in any other manner, or shall furnish any pirate, felon, or robber upon the seas, with any ammunition, provision, or stores of any kind, or shall fit out any ship or vessel knowingly, and with a design to trade with, or supply, or correspond with any pirate, felon, or robber upon the seas, or if any person or persons shall any ways consult, combine, confederate, or correspond with any pirate, felon, or robber on the seas, knowing him to be guilty of any such piracy, felony, or robbery, such offender and offenders and every of them shall, in each and every of the said cases, be deemed, adjudged, and taken to be guilty of piracy, felony, and robbery, and he and they shall and may be enquired of, tried, heard, and adjudged of and for all or any the matters aforesaid, according to the Statute made in the twenty-eighth year of King Henry the Eighth for pirates, and the Statute made in the eleventh and twelfth years of the reign of his late Majesty King William the Third, intituled "An Act for the more effectual suppressing of piracy," which by an Act made in the sixth year of his present Majesty is made perpetual; and he and they being convicted of all or any the matters aforesaid shall suffer such pains of death, loss of lands, goods, and chattels, as pirates, felons, and robbers upon the seas ought to suffer; and in case any person or persons belonging to any ship or vessel whatsoever, upon meeting any merchant ship or vessel on the high seas, or in any port, haven, or creek whatsoever, shall forcibly board or enter into such ship or vessel, and

[After March 25th, 1722, commanders of ships or others, trading with pirates, furnishing them with stores, corresponding with them, &c.

shall be adjudged guilty of piracy according to 28 Hen. 8. c. 15. and 11 Will. 3. c. 7.

Persons belonging to any vessel forcibly boarding any merchant ship, and

[1] Rep. as to so much as relates to the punishment of the crime of piracy, or of any offence declared to be piracy, or of accessaries thereto respectively, 7 Will. 4. & 1 Vict. c. 88, s. 1.]

though they do not seize and carry off such ship or vessel, shall throw overboard or destroy any part of the goods or merchandizes belonging to such ship or vessel, the person and persons who shall be guilty thereof shall in all respects be deemed and punished as pirates as aforesaid.

[throwing any goods overboard, shall be punished as pirates.]

[II.] And be it further enacted by the authority aforesaid, that every ship or vessel which shall be fitted out with a design to trade with, or supply, or correspond with any pirate, and all and every goods and merchandizes put on board the same for any intent or purpose to trade with any pirate, felon, or robber on the seas, shall be ipso facto forfeited; one moiety thereof to the use of the Kings Majesty, his heirs and successors, the other moiety to the person or persons who shall first make discovery and give information of such intent or design; and such person or persons who shall first make such discovery, shall and may sue for and recover the said ship or vessel, and all and every the goods and merchandizes on board the same, in the High Court of Admiralty.

[Ships fitted out to trade with pirates, and the goods, forfeited, half to the crown, half to the discoverers.

To be sued in the Admiralty.]

[III.] And whereas there are some defects in the laws for bringing persons who are accessaries to piracy and robbery upon the seas, to condign punishment, if the principal who committed such piracy and robbery is not or cannot be apprehended and brought to justice: Be it therefore enacted by the authority aforesaid, that all and every person and persons whatsoever, who, by the said Statute made in the eleventh and twelfth years of the reign of King William the Third, are declared to be accessary or accessaries to any piracy or robbery therein mentioned, are hereby declared and shall be deemed and taken to be principal pirates, felons, and robbers, and shall and may, from and after the said twenty-fifth day of March one thousand seven hundred and twenty-two, be enquired of, heard, determined, and adjudged, in the same manner as persons guilty of piracy and robbery may and ought to be enquired of, tried, heard, determined, and adjudged by the said Statute made in the eleventh and twelfth years of his late Majesty King William, and being thereupon attainted and convicted, shall suffer such pains of death, loss of lands, goods, and chattels, and in like manner as pirates and robbers ought by the said Act to suffer.

[Persons declared accessaries to piracy by 11 Will. 3. c. 7. shall be deemed principals, and after March 25, 1722, suffer as such.]

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[VI.] And be it further enacted by the authority aforesaid, that in case any commander, master, or other officer, or any seaman or mariner of any merchant ship or vessel, which carries guns and arms, shall not when they are attacked by any pirate, or by any ship or vessel on which any such pirate is on board, fight and endeavour to defend themselves and their said ship or vessel from being taken by the said pirate, or shall utter any words to discourage the other mariners from defending the ship, and by reason thereof the said ship or vessel shall fall into the hands of such pirate, then and in

[Masters or seamen not defending themselves against pirates, or who shall utter any discouraging words, shall, if the ship be taken, forfeit their wages to the owners, and suffer six

months imprisonment.] every such case every such commander or master or other officer and every seaman or mariner who shall not fight and endeavour to defend and save the said ship or vessel, or who shall utter any such words as aforesaid, shall lose and forfeit all and every part of the wages due to him and them respectively, to the owner and owners of the said ship or vessel, and shall not be permitted to sue for or recover the same or any part thereof in any court either of law or equity, and as a further punishment shall suffer six months imprisonment.

[Masters shall not advance to any seaman above half his wages, while beyond sea, on forfeiture of double the sum advanced, to be recovered in the Admiralty by the informer.] [VII.] AND for prevention of seamen or mariners deserting merchant ships or vessels abroad in the plantations, or in any other parts beyond the seas, which is the chief occasion of their turning pirates, and of great detriment to trade and navigation, and is chiefly occasioned by the owner or owners of ships or vessels paying wages to the seamen or mariners when abroad, be it enacted by the authority aforesaid, that no master or owner of any merchant ship or vessel shall pay or advance, or cause to be paid or advanced to any seaman or mariner during the time he shall be in parts beyond the seas, any money or effects upon account of wages, exceeding one moiety of the wages which shall be due at the time of such payment, until such ship or vessel shall return to Great Britain or Ireland, or the plantations, or to some other of his Majesties dominions whereto they belong, and from whence they were first fitted out; and if any such master or owner of such merchant ship or vessel shall pay or advance, or cause to be paid or advanced, any wages to any seaman or mariner above the said moiety, such master or owner shall forfeit and pay double the money he shall so pay or advance, to be recovered in the High Court of Admiralty by any person who shall first discover and inform of the same.

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[To extend to Asia, &c.] [X.] AND be it also enacted, that this Act shall extend to all his Majesties dominions in Asia, Africa, and America, and shall be taken as a publick Act .....

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